

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

**IA No.891 of 2023
In
CP(IB) No.173/Chd/Pb/2020
(Admitted)**

Under Section 22(3)(b) of IBC, 2016

In the matter of:-

Aman Bajaj Proprietor of
M/s. Jagir Chand Sham Sunder

Versus

...Operational Creditor

M/s. Ram Lal Aneja Food Pvt. Ltd.

...Corporate Debtor

And in the matter of IA No. 891/2023:-

**Punjab National Bank,
Through its Chief Manager
Having its registered office at
Circle Sastra, Abohar Road,
Opposite Setia Motors, Fazilka**

...Applicant/Financial Creditor

Versus

**Mr. Akhil Ahuja,
Interim Resolution Professional of
M/s. Ram Lal Aneja Food Pvt. Ltd.
Having its registered address at
B-29, LGF, Lajpat Nagar III, New Delhi South
National Capital Territory of Delhi**

...Respondent

Order delivered on: 15.06.2022

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

Present:-

For the applicant : Mr. Harsh Garg, Advocate
: Mr. Pulkit Goyal, Advocate

For Respondent : Mr. Raghav Kakkar, Advocate

PER: HARNAM SINGH THAKUR, MEMBER (JUDICIAL)

ORDER

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The present application has been filed under Section 22 (3) (b) of the Code by Punjab National Bank through its Chief Manager Mr. Kuldip Singh, for the appointment of Mr. Prem Chand Goyal as Resolution Professional in place of Mr. Akhil Ahuja, IRP.

2. It is stated that the application under section 9 of the Code was filed by one of the petitioners-operational creditors- Mr. Aman Bajaj, Proprietor of M/s. Jagir Chand Sham Sunder before this Adjudicating Authority, which was duly admitted vide order dated 13.01.2023, and Mr. Akhil Ahuja was appointed as the Interim Resolution Professional (herein referred to as the IRP).

3. On perusal of the records, it is noted that the CoC in its third meeting dated 24.03.2023, has approved the appointment of Sh. Prem Chand Goyal by replacing Sh. Akhil Ahuja-IRP with 100% voting share in favour of the proposed Resolution

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Professional. A copy of the 3rd CoC meeting is attached as Annexure A-4 with the application. The resolution for the appointment of Mr. Prem Chand Goyal is extracted herein below:

“Resolution Number: CoC-03-R1

Resolved that Mr. Prem Chand Goyal an Insolvency Professional be and is hereby appointed as the Resolution Professional in the matter of Corporate Insolvency Resolution Process in the matter of Ram Lal Aneja Foods Private Limited in accordance with the provision of section 22(3)(b).”

4. Further, the applicant bank, through its submission note filed vide diary no 01139/2 dated 13.06.2023, has stated that the matter was heard on 01.06.2023, wherein this Adjudicating Authority was of the opinion that the applicant bank could call another subsequent meeting and approve the said agenda for change again. In view of this, the 5th CoC meeting was held again on 07.06.2023, wherein by agenda item 10, it has been resolved again to replace the IRP Mr. Akhil Ahuja with a new RP Mr. Prem Chand Goyal. A Copy of the 5th minutes of the CoC is attached as Annexure A of the submission note. The relevant agenda is as follows:

Resolution Number: CoC-05-R4

Resolved that Mr. Prem Chand Goyal an Insolvency Professional be and is hereby appointed as the Resolution Professional in the matter of Corporate Insolvency Resolution Process in the matter of Ram Lal Aneja Foods Private Limited in accordance with the provision of section 22(3)(b).

As discussed in the meeting, the CoC member mentioned to record their approval/concurrence on all the resolutions placed in the meeting itself instead

of voting either through electronic platform or through Postal Ballot. Accordingly, such resolution has stood passed with 100% voting right.

5. The respondent-IRP has filed its written submission vide diary no. 1139/01 dated 01.06.2023, wherein the respondent has raised an objection that the voting should have taken place through ballot paper. The said resolution was not voted upon despite the respondent sending the reminders to CoC on March 29, 2023, and April 4, 2023. It is further contended by the learned counsel for the respondent-IRP that CoC has passed every other resolution by voting through ballot paper.

6. We have heard the learned counsel for the parties and carefully perused the facts and circumstances of the case, we are of the considered view that the objections raised by the respondent-IRP are without substance as per Regulations 25 and 26 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 as the voting is to be carried out through electronic means and not through the ballot paper as contended by the learned counsel for respondent-IRP. So, if at all the voting was to be done through ballot paper, then also it is pertinent to note that there is a sole CoC member, i.e., applicant-Punjab National Bank. It is further pertinent to note that subsequently, a fresh 5th CoC meeting was convened for the appointment of RP, which has been passed through 100% voting. Therefore, the objection raised by the IRP stands satisfied.

7. In view of the above discussion, Mr Prem Chand Goyal bearing Registration No. IBBI/IPA-001/IP-P01780/2019-2020/12710, Mobile No. 9813621782, is appointed as the new RP of the corporate debtor by replacing Mr. Akhil Ahuja. The consent of the new proposed RP in Form AA, along with the AFA and registration certificate, is attached as

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Annexure A-5 of the application. The antecedents of the new RP, i.e. Mr. Prem Chand Goyal, have been checked by the Law Research Associate of this Tribunal, and no adverse remarks have been found against him. Therefore, Mr. Prem Chand Goyal is appointed as the new Resolution Professional, and the outgoing RP, i.e., Mr. Akhil Ahuja, is directed to hand over the record to the new RP within three days thereafter.

8. In the result, IA No. 891/2023 is allowed and disposed of accordingly. However, the erstwhile IRP is at liberty to file the claim of his fee and expenses, if any, with CoC within 15 days of this order, and the same would be decided by CoC in its next meeting.

Sd/-

(Subrata Kumar Dash)
Member (Technical)

June 15, 2023

PB

Sd/-

(Harnam Singh Thakur)
Member (Judicial)