



IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER

SHRI PRASANTA KUMAR MOHANTY,
HON'BLE TECHNICAL MEMBER

IA (IBC) No. 242/JPR/2022
In CP (IB) No. 39(PB)/2018

IN THE MATTER OF:

**ADMINISTRATOR OF SPECIFIED UNDERTAKING
OF UNIT TRUST OF INDIA & ANR.**

...Financial Creditor

VERSUS

MODERN SYNTEX (INDIA) LTD.

...Corporate Debtor

MEMO OF PARTIES

IA (IBC) No. 242/JPR/2022:

PARTHA SARATHY SARKAR
RP- Modern Syntex (India) Ltd.

R/o Office No. 1, Jalaram Krupa,
Building No. 61, Janmabhoomi Marg,
Fort, Mumbai, Maharashtra- 400001

Mail Id: sarkarpartho@yahoo.com

...Applicant

VERSUS

SUSPENDED BOARD OF DIRECTORS
Modern Syntex (India) Ltd.

A. Sh. Niraj Rathore,
Having DIN: 01280510
Residing at: 59, Sardar Patel
Marg, C- Scheme, Jaipur,
Rajasthan- 302001.



B. Smt. Sunita Ashok Sharma,
Having DIN: 06973828
Residing at: 502, Sukhada
Apartments, C-Wing, S.P. Marg,
Worli Sea Face, Mumbai,
Maharashtra-400025.

C. Mr. Kamal Ranka,
Having DIN: 00934876
Residing at: 8th Floor, Siddharth
Building, 42 G. Thandani Marg,
Worli Sea Face, Mumbai,
Maharashtra- 400018.

D. Mr. Rajendra Prasad Agarwal,
Having PAN: ABQPA3475N
Residing at: C-102, Makarpura
Road, Status Enclave, Vadodara,
Gujrat- 390009.

...Respondents

For the Applicant : Partha Sarathy Sarkar, RP in person
For the Respondent : Varsha Banerjee, Adv.

Order Pronounced On: - 06.02.2023

ORDER

Per: Shri Deep Chandra Joshi, Judicial Member

1. The present application bearing *IA (IBC) No. 242/JPR/2022* has been filed by Mr. Partha Sarathy Sarkar, Resolution Professional of M/s Modern Syntex (India) Ltd. ('Corporate Debtor') under Section 19(2) & 19(3) of Insolvency Bankruptcy Code, 2016 ('IBC'/'Code') seeking co-operation of the Suspended Directors/ other Respondents with regard to the Corporate Insolvency Resolution Process ('CIRP') of the Corporate Debtor.



2. The main Application bearing *CP(IB)No.39(PB)/2018* was filed by Administrator of Specified Undertaking of Unit Trust of India ('Financial Creditor') against the Corporate Debtor under Section 7 of the IBC, 2016. This petition was admitted and CIRP was initiated against the Corporate Debtor vide Order dated 28.03.2022 wherein Mr. Partha Sarathy Sarkar, was appointed as the Insolvency Resolution Professional ('RP') to conduct the CIRP of the Corporate Debtor.
3. In the present application, the Applicant has sought the following prayers:
 - a. *To direct the Respondent/s to provide all books of accounts in terms of Sec 128(5) of Companies Act, 2013 AND providing access control of the CD's website interalia the domain and hosting details of website www.modernpetrofiles.in.*
 - b. *To grant appropriate reliefs in terms of prayer clause/s 'a' and such other directions given the factual matrix/ circumstances of the present matter.*
4. The present application has been filed pursuant to the Resolution passed by the Committee of Creditors ('CoC') on 25.04.2022. The Applicant has submitted that evasive replies are being received from the Respondents regarding the books of accounts. Moreover, the Respondent No. 4 who was present during the visit of the Applicant has continuously stated that he is not aware of the whereabouts of the books of accounts of the Corporate Debtor. Further, on inspection of the files available in the accounts section of the



Corporate Debtor's Factory, the Applicant has submitted that only old files and records belonging to the Corporate Debtor has been retrieved, which are of no relevance to ascertain the present position. The applicant has attached the communication exchanged with the Respondents wherein the Applicant has requested the Respondents to provide complete data of the Corporate Debtor. Also, the RP contacted the web administrator who has stated that he is helpless and only company officers and directors can help out with the information in securing access to the website of the company.

5. Reply to the said application has been filed vide Diary No. 2609/2022 dated 31.08.2022 wherein the Respondents have stated that the possession of the Factory of the Corporate Debtor along with all the other assets has been handed over to the Applicant on 05.04.2022. The respondents have also submitted that the Respondents have made their best efforts to provide as much as information to the Applicant as they could assemble even though the business activity of the Corporate Debtor has ceased from the year 2018.
6. The Applicant has also preferred two set of Written Submissions vide Diary No. 3361/2022 dated 15.11.2022 and Diary No. 3476/2022 dated 25.11.2022 wherein it has been submitted that the Respondent No. 4 at the behest of the captioned respondents, denied possession of the office of the Corporate Debtor to the Applicant on 27.10.2022 as the registered office belongs to a group of companies of the Corporate Debtor and the details provided to the Applicant regarding the website access were incorrect.



7. Section 19 of the IBC provides that *“the personnel of the Corporate Debtor, its promoters or any other person associated with the management of the Corporate Debtor shall extend all assistance and cooperation to the Interim Resolution professional as may be required by him in managing the affairs of the Corporate Debtor. Where any personnel of the Corporate Debtor, its promoter or any other person required to assist or cooperate with the interim resolution professional does not assist or cooperate, the interim resolution professional may make an application the Adjudicating Authority for necessary directions”*. Due to lack of information the Applicant is not able to perform duties contemplated in Section 17,18 and 25 of the Code.
8. Any disobedience of the aforementioned section by the Respondents, including failure to hand over the required necessary documents and non-cooperation with the RP to complete the CIRP amounts to misconduct in course of CIRP. The RP may file an application under Section 70 of the Code for initiating appropriate legal proceedings against the suspended directors of the Corporate Debtor in event of commission of an offence within meaning of the Code.
9. After consideration of the prayers of the Applicant, this Application stands allowed with the following directions:
 - a. The Respondents shall extend necessary co-operation and provide all information as sought for by the Applicant and make available all the



documents as prayed for in the present Application within a period of 10 days from this Order.

- b. The Respondents shall provide access control of the Corporate Debtor's website inter-alia the working domain and hosting details of website www.modernpetrofiles.in.
- c. If the Respondent fails to co-operate then this Authority would be constrained to issue notice to the concerned Superintendent of Police, where the Respondents reside to summon and present the Respondents before us.
- d. Upon receiving the Financial Statements, the RP shall draw an inventory as per the books of accounts and balance sheet detailing assets of the Corporate Debtor and the list of the same shall be handed over to the Respondents.
- e. The Respondents, on receipt of the inventory list, shall handover any documents or assets of the Corporate Debtor to the RP at the earliest. Further, it is directed that any assets which are not taken in possession by the RP, shall be handed over on over within one week of the date of receipt of the inventory list.
- f. In case the Respondents fail to comply with the aforementioned directions, the RP is at liberty to take appropriate actions against the Respondents.



10. In view of the foregoing, this application is allowed and disposed of accordingly with the abovementioned directions. The Registry is directed to send email copies of the order forthwith to all the parties inclusive of the Counsel.

DEEP
CHANDRA
JOSHI

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JOSHI
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**DEEP CHANDRA JOSHI,
JUDICIAL MEMBER**

PRASANTA
KUMAR
MOHANTY

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**PRASANTA KUMAR MOHANTY,
TECHNICAL MEMBER**