

**THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-IV**

IA No. 2077/2021  
IN  
CP (IB)/3918/MB/2019

Under Section 33(1) of Insolvency &  
Bankruptcy Code, 2016.

Mr. Brijendra Kumar Mishra  
Flat No. 202, 2<sup>nd</sup> Floor, Bhoj Bhavan, Plot  
No-18-D, Chembur, Mumbai, Maharashtra  
400071

New Resolution Professional/  
Proposed Liquidator

In the matter of  
Mr. Ramesh Chand Kumawat  
E 32 Akshya Co-op Housing Society Ltd,  
Jayraj Nagar, Chandravakar Lane, Borivali  
(West) Mumbai, Maharashtra, 400091

Resolution Professional/  
...Applicant

In the matter of  
CP (IB) No.3918/MB/C-IV/2019  
Mr. Pooransingh VijaySingh Rathod  
A Sole Proprietor of Meghna Colour Chem  
Operational Creditor

Vs.

JK Coil Coatings Private Limited  
Corporate Debtor

Order delivered on: 3.11.2022

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*Coram:*

Mr. Manoj Kumar Dubey  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

*Appearances (via videoconferencing):*

For the Applicant/RP : Mr. Nithish Bangera.

For the Respondent No 2 : Mr. Sahim Ansari.

For the Respondent  
No 1,3 and 4 : Mr. Rohan Agarwal.

**ORDER**

***Per: Kishore Vemulapalli, Member (Judicial)***

1. The above application is filed by Mr. Ramesh Chand Kumawat Applicant/ Resolution Professional, seeking liquidation of JK Coil Coatings Private Limited, (hereinafter referred as Corporate Debtor) under Section 33(1) (a) and 34(1) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as "the Code").
2. **The brief facts of the Application are as follows:**
  - A. That this Tribunal vide an order dated 18.09.2020 in Company Petition No. 3918/2019 admitted the petition under Section 9 of the Code, filed by Mr. Pooransingh VijaySingh Rathod, Sole Proprietor of Meghna Colour Chem (hereinafter referred to as the

“Operational Creditor”) and Corporate Insolvency Resolution Process (CIRP) was initiated against JK Coil Coatings Private Limited, (hereinafter called as the “Corporate Debtor”). The Applicant herein was appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor by this Tribunal vide this Order.

- B. The Applicant Submits that, the IRP had made Public announcements through Form G dated 03.02.2021 in two Local newspapers namely Free Press Journal (English Newspaper) and Navshakti (Regional language) inviting the claims from the Creditors of the Corporate Debtor as per the Regulation 6(3) of the Insolvency and Bankruptcy Board of India (Insolvency Regulation Process for Corporate Persons) Regulations, 2016.
- C. The applicant had filed IA No 370/2021 for extension of time for CIRP and the same was granted for period of 90 days (i.e. up to 15.06.2021) vide order dated 01.03.2021.
- D. In the 7<sup>th</sup> COC meeting dated 19.05.2021 the COC approved the exclusion of period of 2 months from CIRP period, resulting in extension of expiry of CIRP period from 15.06.2021 to 15.08.2021.
- E. Upon the request of Prospective Resolution Applicant (PRAs) to extend the time lines for submission of Resolution Plan, and the same was extended and the final due date was 30.06.2021.

- F. In view of 270 days expiring on 15.06.2021, the RP filed IA No 1165/2021 for seeking exclusion of 2 months up to 15.08.2021.
- G. The PRA's submitted the Resolution Plan. However, in the 10<sup>th</sup> COC meeting held on 13.08.2021, the suspended directors showed their willingness to submit the Resolution Plan. The due date for submission of Resolution Plan had already passed, it was decided by the COC to allow them to submit a repayment proposal available u/s 12A of IBC,2016. The suspended director agreed to take the applicants consent to submit a withdrawal application along with bank guarantee to the Resolution Professional and take the approval of Single member COC and file application u/s 12A. The COC decided to file an IA for further extension of period of one month i.e. till 15.09.2021 for the above stated purpose with an alternate prayer made in the said application that if the extension is not approved, the Corporate Debtor may be liquidated.
- H. In the 11<sup>th</sup> COC meeting dated 01.09.2021 the COC decided to Liquidate the Corporate Debtor.
- I. Further as the 2 months period expired on 15.08.2021 the Resolution Professional, by filing a separate IA 1911/2021 on 23.08.2021, prayed for further exclusion of 1month from the CIRP period i.e. up to 15.09.2021, with an alternate prayer for Liquidating the Corporate Debtor.

- J. The COC has also filed IA 1100/2021 and IA 1143/2021 for replacement of RP stating that he is unable to continue in view of his mental health conditions and he is undergoing some clinical treatment and also filed a documentary request stating that he was unable to continue his assignment. In the view of COC and the request made by the RP himself, the bench vide its order dated 29.09.2021 has replaced the RP and appointed Mr. Brijendra Kumar Mishra having its registration no IBBI/IPA-002/IP-N00109/2017-2018/10257 as new Resolution Professional.

**ORDER**

- a. IA No. 2077/2021 filed by the Applicant for the Liquidation of JK Coil Coatings Private Limited is allowed.
- b. Mr. Brijendra Kumar Mishra, Resolution Professional having Registration No. IBBI/IPA-002/IP-N00109/2017-2018/10257 as liquidator to conduct Liquidation process of JK Coil Coatings Private Limited is allowed is hereby appointed as the Liquidator in the matter as provided under Section 34(1) of the Code.
- c. That the Liquidator would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016 to conduct the liquidation proceedings.
- d. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

- e. The Liquidator appointed under section 34(1) of the Code, will have all powers of the Board of Directors, Key Managerial Personnel and the Partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the Liquidator.
- f. That the Corporate Debtor to be liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the ROC under which this Company has been registered.
- g. That the personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
- h. That on having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suit or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
- i. This liquidation order u/s 33(7) shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator. With the above directions, the IA No.

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2077/2021 filed u/s33(1) by the applicant is hereby Allowed  
and Disposed of.

Sd/-

Manoj Kumar Dubey  
Member (Technical)  
03.11.2022.

Sd/-

Kishore Vemulapalli  
Member (Judicial)