IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI

COURT - IV

I.A. (IB) No. 1743 of 2025
IN
C.P. (IB) No. 197/MB/2018

[Under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016.]

In the matter of:

Unimark Remedies Limited

…Applicant

V/s.

1. Notified Area Authority GIDC, Vapi

…Respondent No. 1

2. Mr. Amit Gupta

(Erstwhile Resolution Professional of Unimark Remedies Limited)

…Respondent No. 2

<u>In the matter of</u>

ICICI Bank Limited

…Financial Creditor

V/s.

Unimark Remedies Limited

…Corporate Debtor

Pronounced: 09.12.2025

CORAM:

SHRI ANIL RAJ CHELLAN	**SHRI K. R. SAJI KUMAR**
HON'BLE MEMBER (TECHNICAL)	**HON'BLE MEMBER (JUDICIAL)**

Appearances: Hybrid

For Applicant	:	Adv. Nausher Kohli a/w Adv. Shikha Ginodia, Adv. Gaurav Suryavanshi i/b ANM Global.
For Respondent no. 1	:	Adv. Avinash Poddar a/w Adv. Pramod Kumar Dokania and CA Hardik Kakadia.

ORDER

Per: Anil Raj Chellan, Member (Technical)

1. This Application has been filed under Section 60(5) of the Insolvency and Bankruptcy Code (Code), by Unimark Remedies Limited (Applicant/Corporate Debtor), seeking directions against Notified Area Authority GIDC, Vapi (Respondent No. 1/NAAV), for restoration of essential services, namely, water supply and drainage connection to Plot Nos. 40A, 40B, 41, 42/1B, 42/2, 43/A, 43/B and 59 situated at Phase-I, GIDC, Vapi, Valsad, Gujarat- 396195 (Factory Premises), wherein the Applicant has its business operations. The Respondent No. 2 is the erstwhile Resolution Professional of the Applicant and a proforma party.

2. Facts of the Case

2.1 ICICI Bank Limited, a financial creditor of the Corporate Debtor, filed a Company Petition under Section 7 of the Code seeking initiation of CIRP against the Corporate Debtor. This Tribunal, *vide* order dated 03.04.2018, admitted the Company Petition and commenced the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor. By the aforesaid order, Mr. Amit Gupta was appointed as the Interim Resolution Professional of the Corporate Debtor.

2.2 On 24.12.2018, the Resolution Plan submitted by a Consortium was approved by the Committee of Creditors (CoC) by requisite voting share, in terms of Section 30(4) of the Code. The approved Resolution Plan (along with addendum thereto) was thereafter filed before this Tribunal through

Miscellaneous Application No. 23/MB-IV/2019 seeking approval under Section 31 of the Code. This Tribunal approved the Resolution Plan *vide* order dated 17.04.2023, (Plan Approval Order).

3. Submissions of the Applicant

3.1 The Resolution Plan approved by the Tribunal under Section 31 of the Code provides that all past liabilities of the Corporate Debtor shall stand extinguished by operation of law. After the Plan Approval Order, the Applicant also issued a letter dated 12.10.2023 to Respondent No.1 informing that pursuant to the approved Resolution Plan, Unimark Remedies Ltd. has been allocated to Shamrock Pharmachemi Private Limited (SPPL) and that all the pre-CIRP and pre-approval liabilities of the Corporate Debtor shall stand extinguished.

3.2 Along with the aforesaid letter, the Applicant paid an amount of Rs.8,89,043/- towards bills raised post the Plan Approval Order, i.e.,17.04.2023, applicable for the period from 18.04.2023 to 10.10.2023 related to property tax. The Applicant asserts that the CIRP cost towards property tax for the period 03.04.2018 to 17.04.2023 was duly paid by Respondent No. 2. With respect to water charges, the Applicant states that it has paid Rs.1,43,525/- to Respondent No. 1 for dues accruing after the Plan Approval Order. Additionally, RP paid Rs.26,81,605/- on 21.08.2023 to Respondent No. 1, for restoration of water connection at Plot No. 59, covering dues from 03.04.2018 to 17.04.2023. The Applicant duly communicated this to Respondent No. 1 *vide* letter dated 27.09.2023.

3.3 The Applicant further submits that despite the settlement of all post-approval dues, Respondent No. 1 is yet to provide a *No Dues Certificate* and has not restored essential services to the factory premises handed over to SPPL. This situation is compelling the Applicant to keep the plant non-operational.

3.4 The Applicant addressed multiple letters dated 30.10.2023 seeking restoration of services for each individual plot; however, Respondent No. 1 only restored the water supply for Plot No. 41. Respondent No.1 thereafter demanded payment of dues pertaining to the pre-CIRP period as a condition for the restoration of services. Despite repeated clarifications, Respondent No. 1 failed to acknowledge that such dues stand extinguished under Section 31 of the Code.

3.5 The Applicant again addressed a comprehensive letter dated 28.11.2023, reiterating the extinguishment of all past liabilities and affirming payment of all post-approval dues with an undertaking to continue paying future dues within statutory timelines. Despite this, Respondent No. 1 proceeded to issue various notices/demand orders seeking payment of pre-plan dues relating to water, drainage, and property tax. Furthermore, Respondent No. 1 has threatened to disconnect the electricity and water supply to Plot No. 41 should there be a failure to pay these extinguished dues.

3.6 The Applicant reiterates that all dues arising after the Plan Approval Date, i.e., 17.04.2023, have been fully paid, totalling Rs. 18,62,762/- till March 2025. Furthermore, there are no outstanding dues before this date that survive in law.

3.7 It is submitted that Respondent No. 1 has only restored essential services to Plot No. 41. Despite repeated requests, the restoration of services to the remaining plots has not been provided. This situation has severely hindered the commencement of operations and caused considerable financial losses.

3.8 The Applicant relies on Section 31 of the Code, as amended in 2019, which expressly clarifies that the approved resolution plan is binding on Central Government, State Government and local authorities, and therefore binding on Respondent No. 1. The Applicant submits that coercive measures threatened by Respondent No. 1 would jeopardise plant operations and cause irreparable loss, despite full payment of all post-approval dues and CIRP costs.

3.9 The Applicant also submits that, on account of the above, the Respondent No. 1 failed to process and grant permission to create mortgage on the plots, which is essential for availing loans for making its business operational.

3.10 In this background, the Applicant has filed the present Application.

4. Contentions of Respondent No.1

4.1 Respondent No.1 filed its reply affidavit disputing the averments made by the Applicant.

4.2. The Respondent No.1 contends that the NCLT lacks jurisdiction to adjudicate issues relating to municipal taxes, water connection or drainage services, which are governed by the Gujarat Industrial Development (Notified Areas) Rules, 2007 read with the Gujarat Municipalities Act, 1963. In support of the above contention, reliance is placed on the decision of the Hon'ble Supreme Court in *Embassy Property Developments Pvt. Ltd. v. State of Karnataka,* [(2019) 13 SCC 790], wherein it is held that NCLT would not have jurisdiction to adjudicate upon disputes arising under special statutes involving decisions of statutory authorities.

4.3. Essential services such as drainage require valid environmental clearances, namely, Gujarat Pollution Control Board Consent to Operate, also named as Consolidated Consent & Authorisation (CCA). Respondent No. 1 contends that the Applicant or SPPL has not submitted the same. Without submission of GPCB CCA and without being a registered occupant in GIDC, any restoration of civil infrastructure would amount to violation of environmental law. Section 30(2)(e) of the Code provides that a resolution plan cannot contravene any law.

4.4. The Respondent No.1 contends that the Applicant discriminately and clandestinely finalised the resolution plan in bad faith and without considering the dues of the Respondent No. 1. Respondent No.1 was never part of the CoC, nor was any notice or opportunity granted to Respondent No.1 to file its claim. The 'Clean State' principle acknowledged in the judgement of the Hon'ble Supreme Court is not a *carte blanche* that absolves all past liabilities irrespective of the CIRP's conduct. Instead, it is a consequence of a properly conducted CIRP, in which all known and ascertainable liabilities are dealt with. However, the Respondent No.1 was not given reasonable opportunity to submit their claim in accordance with the provisions of the Code and CIRP Regulations. Therefore, the dues of Respondent No.1 survive and remain enforceable even after the approval of the resolution plan.

4.5. It is further contended that since Respondent No. 1 was neither part of the CoC nor was issued notice during the CIRP and hence its claim cannot be deemed extinguished. Reliance is placed on *Ghanshyam Mishra & Sons v. Edelweiss ARC* [(2021) 13 S.C.R 737], asserting that extinguishment applies only to claims duly notified and considered. Respondent No. 1 further relies on the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2022, arguing that proper notice was not provided by the Resolution Professional.

4.6. The Respondent No. 1 submits that restoration of water and drainage connections falls within its discretionary domain of the Notified Area Authority constituted under the Gujarat Industrial Development (Notified Areas) Rules, and requires compliance with environmental and statutory requirements. Any person aggrieved by an order or decision of the Notified Area Authority must avail the appeal mechanism provided under the Gujarat Municipalities Act, 1963, and this cannot be challenged before this Tribunal.

5. <u>Rejoinder by Applicant</u>

5.1 The Applicant submits that Respondent No.1's objection to the jurisdiction of this Tribunal is misconceived. The reliefs sought in the captioned Application pertain to extinguishment and binding effect under an approved resolution plan in terms of Section 31 of the Code, and interference with plan implementation, is squarely covered within Section 60(5)(c) of the Code.

5.2 The Applicant states that Respondent No. 1 has not cited any statutory provision mandating the submission of CCA for the restoration of drainage. Further, the Applicant has obtained a valid Consent and Authorisation dated 27.10.2021 from Gujarat Pollution Control Board under the Water (Prevention and Control of Pollution) Act, 1974, which Respondent No. 1 has conveniently ignored.

5.3 The Applicant relies on the express provisions of the Resolution Plan, approved on 17.04.2023, which stipulate continuity and validity of all licences, permissions, and consents without the requirement of fresh approval.

5.4 The Resolution Plan provides for settlement of statutory dues up to Rs.1,00,00,000/-. No objection was raised by Respondent No. 1 during the Plan approval stage. Respondent No. 1, having never challenged the Resolution Plan earlier, now lacks locus to question the treatment of its dues.

5.5 Issuance of a No Dues Certificate is ancillary to implementation of the Resolution Plan, and refusal to issue the same as leverage to enforce extinguished claims constitutes an indirect abuse of the ‘clean slate’ principle.

5.6 Regulation 6A of the CIRP Regulations, introduced in 2022, cannot apply retrospectively to the CIRP initiated in 2018, and public announcements constituted constructive notice to all creditors, including Respondent No. 1.

5.7 Respondent No. 1’s failure to file claims during CIRP or raise objections to the Resolution Plan cannot be a reason to avoid extinguishment of its dues when the Plan has addressed the claims, including those of the Government and local authorities.

5.8 Threat of disconnection of essential utilities, particularly electricity and water, is arbitrary, coercive, contrary to law, and in violation of the Plan Approval Order and the ‘clean slate’ principle.

5.9 The Applicant reiterates that non-restoration of essential services despite valid consents and binding obligations under Section 31 of the Code has exposed the Applicant to operational and environmental risk (including water logging/stagnation) beyond the Applicant’s control and attributable to Respondent No.1’s non-compliance with its statutory facilitation role.

5.10 The Applicant, therefore, seeks the reliefs sought in the Application as well as in the additional affidavit.

6. Analysis and Findings

6.1 We have heard the Ld. Counsel for the Applicant and Respondent, and perused the documents on record.

6.2 It is an admitted position that CIRP initiated in respect of the Corporate Debtor culminated in the approval of a Resolution Plan submitted by Consortium as per which the Corporate Debtor was taken over by SPPL. Respondent No.1 did not file any claim with respect to the property tax and water charges relating to the period prior to the initiation of CIRP before the IRP/RP. Nevertheless, the amounts due for property tax and water charges that accrued during the CIRP period were paid by the RP, while subsequent dues were paid by the Applicant.

6.3 When the Applicant approached the Respondent No.1 for restoration of essential services to the factory premises, a demand was raised to pay the pre-CIRP dues, which is the central issue being contested in this Application. However, the Respondent No.1 asserts that the NCLT lacks jurisdiction to adjudicate issues pertaining to municipal taxes, water connection, or drainage services. Consequently, it is imperative to examine the Tribunal's authority to adjudicate the reliefs sought in this Application.

6.4 As per Respondent No.1, the statutory framework established under the Gujarat Industrial Development (Notified Areas) Rules, 2007 read with the Gujarat Municipalities Act, 1963 governs the regulation, assessment, and administration of municipal tax, water supply, and drainage within the industrial estates. It is contended that the Notified Authority, as defined by the Gujarat Industrial Development (Notified Areas) Rules, 2007 is vested with the exclusive powers of a Municipality under the Gujarat Municipalities Act, 1963 enabling it to regulate and decide upon all matters concerning municipal taxation, water supply, and drainage within in its jurisdiction apart from other functions as specified in the Rules described above. Consequently, disputes relating to municipal taxes, water supply are governed by special statutes, and as such fall outside the purview of the NCLT. To buttress the above contention, the Respondent has cited the judgement of the Hon'ble Supreme Court in Embassy Property (supra).

6.5 In Embassy Property (supra), the corporate debtor possessed a mining lease granted by the Government of Karnataka, which was set to expire on 25.05.2018. Although a notice of premature termination of the lease had already been issued on 09.08.2017, on the allegation of violation of statutory rules and the terms and conditions of the lease deed, no order of termination had been passed as of the date of initiation of the corporate insolvency resolution process. The insolvency resolution professional, therefore, sought to invoke the benefit of deemed extension of the lease beyond the original expiration date in terms of Section 8A (6) of the Mines and Minerals (Development and Regulation) Act, 1957. This request which was rejected by the Government of Karnataka in an order dated 26.09.2018. In this background, the insolvency resolution profession filed an application before NCLT seeking a declaration that the lease should be deemed valid up to 31.03.2020, along with a consequential direction to the Government of Karnataka to execute Supplement Lease Deeds for that period. The Hon'ble Supreme Court, while considering the jurisdiction of NCLT to entertain an application against the Government of Karnataka for the issuance of a direction to execute Supplemental Lease Deeds for the extension of the mining lease held:

"36. From a combined reading of Sub-section (4) and Subsection (2) of Section 60 with Section 179, it is clear that none of them hold the key to the question as to whether NCLT would have jurisdiction over a decision taken by the government under the provisions of MMDR Act, 1957 and the Rules issued there-under. The only provision which can probably throw light on this question would be Sub-section (5) of Section 60, as it speaks about the jurisdiction of the NCLT. Clause (c) of Sub-section (5) of Section 60 is very broad in its sweep, in that it speaks about any question of law or fact, arising out of or in relation to insolvency resolution. But a decision taken by the government or a statutory

authority in relation to a matter which is in the realm of public law, cannot, by any stretch of imagination, be brought within the fold of the phrase "arising out of or in relation to the insolvency resolution" appearing in Clause (c) of Sub-section (5). Let us take for instance a case where a corporate debtor had suffered an order at the hands of the Income Tax Appellate Tribunal, at the time of initiation of CIRP. If Section 60(5)(c) of IBC is interpreted to include all questions of law or facts under the sky, an Interim Resolution Professional/Resolution Professional will then claim a right to challenge the order of the Income Tax Appellate Tribunal before the NCLT, instead of moving a statutory appeal under Section 260A of the Income Tax Act, 1961. Therefore, the jurisdiction of the NCLT delineated in Section 60(5) cannot be stretched so far as to bring absurd results. ***(It will be a different matter, if proceedings under statutes like Income Tax Act had attained finality, fastening a liability upon the corporate debtor, since, in such cases, the dues payable to the Government would come within the meaning of the expression "operational debt" under Section 5(21), making the Government an "operational creditor" in terms of Section 5(20). The moment the dues to the Government are crystalised and what remains is only payment, the claim of the Government will have to be adjudicated and paid only in a manner prescribed in the resolution plan as approved by the Adjudicating Authority, namely the NCLT.)***

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52. The upshot of the above discussion is that though NCLT and NCLAT would have jurisdiction to enquire into questions of fraud, they would not have jurisdiction to adjudicate upon disputes such as those arising under MMDR Act, 1957 and the rules issued thereunder, especially when the disputes revolve around decisions of statutory or quasi-judicial authorities, which can be corrected only by way of judicial review of administrative action. Hence, the High Court was justified in entertaining the writ petition and we see no reason to interfere with the decision of the High Court. Therefore, the appeals are dismissed. There will be no order as to costs."

6.6. There cannot be any dispute that the Insolvency and Bankruptcy Code, 2016, is an exhaustive code on the subject matter of insolvency resolution of corporate persons. Upon the admission of a corporate debtor to the corporate insolvency resolution process as delineated under the Code, moratorium takes effect stopping all legal actions against the corporate debtor. Further, management and control of the corporate debtor are transferred to an interim resolution professional. The Code also prescribes a detailed procedure for the formulation of a resolution plan and sets out the priorities for payments. It is pertinent to notice that, in addition to the overriding effect conferred under Section 238 of the Code over all other statutes, subsection (5) of Section 60 specifies the residuary jurisdiction of NCLT, as below:

"(5) Notwithstanding anything to the contrary contained in any other law for the time being in force, the National Company Law Tribunal shall have jurisdiction to entertain or dispose of—

(a) any application or proceeding by or against the corporate debtor or corporate person;

(b) any claim made by or against the corporate debtor or corporate person, including claims by or against any of its subsidiaries situated in India; and

(c) any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor or corporate person under this Code."

6.7. A plain reading of the above provision emphasises that the broad jurisdiction is conferred on NCLT to serve as a single forum for addressing any questions of law or fact that arise out of or in relation to the insolvency resolution of a corporate debtor. The Hon'ble Supreme Court has examined the phrases 'arising out of' and 'in relation to' in varying contexts, providing essential insights into their implications. While it is not feasible to establish a fixed criterion for determining the residuary jurisdiction of NCLT, judicial precedents offer considerable guidance in interpreting these terms. It can be safely derived from those judicial precedents that these phrases are to be construed in a manner to ascribe them a sensible meaning which takes into consideration the germane to the establishment of NCLT as an exclusive authority aimed at avoiding multiplicity of fora, ensuring speedy resolution, and recognise the nexus between the disputes and the insolvency resolution process, as well as the provisions prescribed in other statures that pertain to the matter. Therefore, the jurisdiction of the Tribunal to deal with the issue hinges upon the aforesaid factors and the specific facts and circumstances of each case.

6.8. In this Application, the Applicant is not invoking the jurisdiction of this Tribunal to adjudicate on the assessment of property tax, water charges, and similar issues. Therefore, the decision in Embassy Property does not support the case of the Respondent. The present dispute concerns the liability of the successful resolution applicant to pay unclaimed dues after approval of the resolution plan. Therefore, the dispute arises out of and in relation to the insolvency resolution process of the Corporate Debtor. Considering the nature of the dispute and the facts of the case, we have no hesitation in holding that the NCLT has jurisdiction to decide the dispute.

6.9. The next issue raised by the Respondent is that Regulation 6A of the CIRP Regulations casts a duty on the interim resolution professional to send a communication along with a copy of the paper publication made under Regulation 6 to all the creditors as per the last available books of accounts of the corporate debtor through post or electronic means. The Respondent No.1 asserts that it did not receive any notice or was part of the CoC. Consequently, it is alleged that CIRP was not conducted in accordance with the requisite procedures. It is argued that when CIRP was not conducted properly, the ‘clean slate’ principle has no application, and the dues of Respondent No.1 survive and remain enforceable even after the approval of the resolution plan.

6.10. It is observed that CIRP in respect of the Corporate Debtor commenced on 03.04.2018, and the claims were collected by the interim resolution professional in 2021. However, Regulation 6A in the CIRP Regulations was inserted with effect from 16.09.2022. Thus, the Respondent has relied on a provision of law which was not in force during the relevant time. Further, the Resolution Plan in respect of the Corporate Debtor was approved by the Tribunal on 17.04.2023. There is nothing on record to show that the Respondent raised any objection either prior to or subsequent to the approval of the Resolution Plan. The Respondent, however, relied on a decision of the Hon'ble Supreme Court in Rainbow Papers Limited (supra) to state that if the resolution plan ignores the statutory demands payable to any state government or legal authority altogether, the adjudicating authority is bound to reject the resolution plan.

6.11. In Rainbow Papers Limited (supra), the State Tax Officer had raised a claim before the CoC, which was not taken into consideration by the CoC. As such, the Apex Court came to a finding that the satisfaction arrived at by the Adjudicating Authority under Section 31 of the Code was vitiated. In the present case, the Respondent No.1 has not filed its claim relating to the property tax, water charges, and similar fees. Therefore, the facts in the case of Rainbow Papers Limited (supra) are totally distinguishable from the facts of the present case.

6.12. Section 31(1) of the Code provides for the legal effect of approval of the Resolution Plan. The Hon'ble Supreme Court elaborately considered this provision in the case of Ghanashyam Mishra (supra) and held:

"95. In the result, we answer the questions framed by us as under:

i. That once a resolution plan is duly approved by the adjudicating authority under sub-section (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the corporate debtor and its employees, members, creditors, including ***the Central Government, any State Government or any local authority,*** *guarantors and other stakeholders. On the date of approval of resolution plan by the adjudicating authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan.*

ii. *The 2019 Amendment to Section 31 of the I&B Code is clarificatory and declaratory in nature and therefore will be effective from the date on which the I&B Code has come into effect.*

iii. *Consequently,* ***all the dues including the statutory dues owed*** *to the Central Government,* ***any State Government or any local authority, if not part of the resolution plan, shall stand extinguished*** *and no* ***proceedings in respect of such dues for the period prior to the date*** *on which the adjudicating authority grants its approval under Section 31* ***could be continued****."*

(emphasis added)

6.13 The law laid down by the Hon'ble Supreme Court in the case of Ghanshyam Mishra (supra) has also been followed in various subsequent judgments. The Hon'ble Supreme Court in unequivocal terms declared that all the dues, including the statutory dues owed to the Central Government, if not a part of the Resolution Plan, shall stand extinguished and no proceedings could be continued in respect of such dues for the period prior to the date on which the adjudicating authority grants its approval under Section 31 of the Code.

6.14 The Respondent contests the aforesaid legal position on the ground that extinguishment applies only to claims duly notified. However, the Respondent has failed to provide any basis for this argument. Even in instances where liability is not considered in the resolution plan, whether due to non-disclosure of such liability in the books of the corporate debtor or the creditors' failure to submit their claim or otherwise, once the resolution plan has been approved, all claims not part of the resolution plan shall be extinguished. If this were not the case, certain creditors might choose to withhold their claims during CIRP, intending to pursue them after the corporate debtor has emerged from CIRP. This would inadvertently reward a lack of diligence in filing claims during the CIRP. Such a situation would also impede the revival or resolution of the corporate debtor, which contradicts the established legal framework and settled principles. Therefore, the argument advanced by Respondent No.1 is rejected as unfounded.

6.15 The refusal to restore essential utilities as a means to coerce the successful resolution applicant into settling past dues, which are not part of the approved resolution plan, constitutes a violation of established legal principles. Additionally, claims that have been extinguished cannot be allowed to be reasserted in alternative forms that may obstruct the implementation of the approved resolution plan. In such a scenario, the NCLT possesses the authority to ensure the effective implementation of the sanctioned plan.

6.16 In view of the above discussions, we are of the considered view that NCLT has the jurisdiction to adjudicate disputes relating to extinguished debts under the approved Resolution Plan. The ‘clean slate’ principle applies in respect of property tax, water charges, and similar claims demanded by Respondent No.1, which are not a part of the resolution plan approved under the Code. Debts that have been extinguished through the approved Resolution Plan can in no way be an obstruction to the revival of the Corporate Debtor. However, the Applicant remains obliged to comply with the public law governing environmental clearances.

6.17 As a result, we **allow the Application and is disposed of.** No order as to costs.

Sd/-	**Sd/-**
ANIL RAJ CHELLAN	**K. R. SAJI KUMAR**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

Siddhi, LRA