



IN THE NATIONAL COMPANY LAW TRIBUNAL,
NEW DELHI COURT III

Item No. 101
IA-3167/2023
In
IB-559(ND)/2021

IN THE MATTER OF:

Yes Bank Ltd

.....**FINANCIAL CREDITOR**

Vs.

Presidium Educational Institution Pvt. Ltd.

.....**CORPORATE DEBTOR**

SECTION

U/s 7 of IBC, 2016

Order Pronounced on 13.07.2023

CORAM:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

Order pronounced in open court vide separate sheets. IA-3167/2023
is **allowed** and **disposed of**.

-SD-
(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

-SD-
(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)



**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI, COURT-III**

IA-3167/2023

In

(IB) – 559(ND)/2021

Order under Section 12(2) of the Insolvency and Bankruptcy Code, 2016
and/or Order under Section 60(5) of the Insolvency and Bankruptcy
Code, 2016 read with Rule 11 of National Company Law Tribunal Rules,
2016.

IN THE MATTER OF:

YES BANK LIMITED

..... Financial Creditor

VERSUS

M/s. PRESIDIUM EDUCATIONAL INSTITUTION PRIVATE LIMITED

..... Corporate Debtor

AND IN THE MATTER OF:

Mr. Anil Goel

AAA Insolvency Professional LLP

Resolution Professional of M/s. Presidium Educational Institution
Private Limited

..... Applicant

Order Pronounced On: 13.07.2023

CORAM:

**SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER
(JUDICIAL)**

SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the Applicant : Mr. Amar Vivek, Mr. Abhinav Tyagi, Adv.

Mr. Anil Goel (AAA Insolvency Professional LLP)

IA-3167/2023 In (IB) – 559(ND)/2021

Date of Order: 13.07.2023



ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. This is an Application filed before this Adjudicating Authority under Section 12(2) of the Insolvency and Bankruptcy Code, 2016 **and/or** Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016, for seeking the following reliefs:

“a) Allow the present Application

b) Exclude the period of 91 days from 24.02.2023 to 26.05.2023 in light of the lack of information available with the Applicant due to non-cooperation from the suspended Directors of the Corporate Debtor.

c) Extend the period of CIRP by 90 days beyond 180 days from 29.05.2023.”

2. **Facts of the Case:**

- i.** The Adjudicating Authority (Bench-II) vide order dated 29.11.2022 was pleased to admit the Company Petition (IB)-559(ND)/2021 filed by the Yes Bank Limited (“Financial Creditor”), for initiating the CIRP under Section 7 of the Code against the Corporate Debtor and declared the moratorium and appointed Mr. Ganga Ram as an Interim Resolution Professional (“IRP”). Afterward, this Tribunal vide order dated 31.03.2023 replaced erstwhile IRP namely Mr. Ganga Ram and appointed the Applicant as the Resolution Professional of the Corporate Debtor on the request of one of the Creditors of the Corporate Debtor i.e., M/s. J.C. Flowers Asset Reconstruction Pvt. Ltd.
- ii.** The First Form-G was published on 05.02.2023 in two newspapers. Since there was no cooperation from the side of the Suspended Directors and Auditor of the Corporate Debtor, an Application bearing IA-1360/2023 was preferred before this Tribunal under Section 19(2) of the Code seeking cooperation from Suspended Directors and Auditor of the Corporate Debtor.

Mr. Anil Goel (AAA Insolvency Professional LLP)
IA-3167/2023 In (IB) – 559(ND)/2021
Date of Order: 13.07.2023



The said application is still pending adjudication.

- iii.** In the third meeting of CoC held on 06.03.2023, the CoC had with 99.87% vote resolved to Republish Form - G since various PRAs were requesting an extension for submission of the Resolution Plan, due to the Non-availability of Books of Accounts/ Documents with the RP and lack of clarity on assets available with the company. Further, the RP was also making efforts to analyze the management details of schools running under the brand name of Mother's Pride and Presidium, to receive more interest from the Prospective Resolution Applicant. Thereafter, the Second Form-G was published on 19.03.2023.
- iv.** In the fifth meeting of the CoC which was held on 09.05.2023, the CoC had discussed and passed resolutions with 100% votes to seek extension and exclusion for the following reasons:

Reason For Exclusion:

“a) Custody and control of the assets of the company could not be taken because of non-cooperation by the suspended directors and not permitting to access schools and other locations where the assets of the Corporate Debtor are located.

b) Non availability of books of accounts resulting in no information about the assets and liabilities of the company.

c) Non availability of details about ownership of the trademark, any master franchise agreement or other franchise agreements executed by the corporate debtor, based on which all the schools are using the trademark owned by the company.

d) Non availability of details of revenue from these schools which are operating in the name of the trademark owned by the Corporate Debtor.

e) No progress has been made in the work of registered valuers who have been appointed by the Resolution Professional after taking approval of their fee from CoC as the valuers have not been given any access or information about the assets of the Corporate Debtor.



f) *The Information Memorandum could not be completed because of all the above reasons and no interest is seen amongst PRAs for submission of Resolution Plan because of unavailability of information required for preparation and submission of Resolution Plan.*

g) *The RP could find that there are 96 number of bank accounts in the name of the Corporate Debtor and he has been able to take statements of bank accounts and is trying to prepare and restructure the books of accounts of the Corporate Debtor to find out the real assets as on the date of CIRP commencement and also to provide the books of account to the transactional auditors appointed by the RP after taking approval of the fee from CoC.”*

Reasons for Extension:

“The following are the reasons for seeking extension of 90 days beyond 180 days.

a) *That 180 days period of the CIRP of the Corporate Debtor was coming to an end on 28.05.2023.*

b) *The RP post CoC's approval had published the 2nd Form G on 19.03.2023, inviting EoIs. According to EoI publication date and the timelines as per regulations IBBI (Insolvency for Corporate Persons) Regulation 2016, the last date of receipt of Resolution Plan is 18.05.2023 which is likely to be extended or the NCLT will be approached for a fresh Form G.”*

3. Analysis and Findings:

- i.** We have heard the Ld. Counsel appearing for the Applicant and also perused the documents on record.
- ii.** In view of the facts and circumstances mentioned hereinabove, we are inclined to extend the period of CIRP by 90 days beyond 180 days from 29.05.2023 and exclude the period of 91 days from 24.02.2023 to 26.05.2023.

Mr. Anil Goel (AAA Insolvency Professional LLP)
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4. **Order**

- i. In light of the above facts and circumstances, the Application bearing **IA-3167/2023** filed under Section 12(2) of the Insolvency and Bankruptcy Code, 2016 **and/or** under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016 is **allowed** and **disposed of**.

-SD-

(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

-SD-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)