

Sd.No. 312/2025

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**THE NATIONAL COMPANY LAW TRIBUNAL**  
**JAIPUR BENCH**

**CORAM: MS. REETA KOHLI,**  
**HON'BLE JUDICIAL MEMBER**

**MS. KAVITA BHATNAGAR**  
**HON'BLE TECHNICAL MEMBER**

**IA No. 99/JPR/2019,**  
**IA No. 107/JPR/2020**  
**& IA (IBC) No. 346/JPR/2025**  
**In CP No. (IB)-54(PB)/2018**

**IN THE MATTER OF:**

**ALCHEMIST ASSET RECONSTRUCTION COMPANY LIMITED**  
**...Financial Creditor**

**VERSUS**

**JAIPUR METALS & ELECTRICALS LIMITED**  
**...Corporate Debtor**

**IN THE MATTER OF:**

**IA No. 99/JPR/2019**

**MEMO OF PARTIES**

**ARUNAVA SIKDAR, RESOLUTION PROFESSIONAL**  
**JAIPUR METALS AND ELECTRICALS LIMITED**  
D-3, LGF, Lajpat Nagar Part I,  
New Delhi-110024

**...Applicant**

**Versus**

**MR. SANJEEV SAXENA, MANAGING DIRECTOR**  
**JAIPUR METALS AND ELECTRICALS LIMITED**  
Near Railway Station, Station Road,  
Jaipur- 302001 (Rajasthan)

**Also At:**

Mahendra Villa, 6/12 SFS, Laxmi  
Marg, Agarwal Farm, Jaipur- 302020

**...Respondent No. 1**

IA 99/JPR/2019  
IA 107/JPR/2020  
IA 346/JPR/2025

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In  
**Madhech**  
Assistant Registrar  
National Company Law Tribunal  
Jaipur

CP (IB) 54/(PB)/2018

**MR. K.K. PATHAK, CHAIRMAN**  
**JAIPUR METALS AND ELECTRICALS LIMITED**  
Near Railway Station, Station Road,  
Jaipur- 302001 (Rajasthan)

*Also At:*

I/20 Gandhi Nagar, Near Nehru  
Garden, Tony Road, Jaipur- 302015

...Respondent No. 2

**MR. SHREEMAT PANDEY**  
**ERSTWHILE NOMINEE DIRECTOR (RETIRED)**  
**JAIPUR METALS AND ELECTRICALS LIMITED**  
Near Railway Station, Station Road,  
Jaipur- 302001 (Rajasthan)

...Respondent No. 3

**MR. LAXMI CHAND JAIN**  
**ERSTWHILE NOMINEE DIRECTOR (RETIRED)**  
**JAIPUR METALS AND ELECTRICALS LIMITED**  
Near Railway Station, Station Road,  
Jaipur- 302001 (Rajasthan)

...Respondent No. 4

**MR. YOGESH KUMAR KAMANI,**  
**ERSTWHILE NOMINEE DIRECTOR (CO-OPERATIVE SOCIETY)**  
**JAIPUR METALS AND ELECTRICALS LIMITED**  
Near Railway Station, Station Road,  
Jaipur- 302001 (Rajasthan)

...Respondent No. 5

**MR. RAJEEV SRIVASTAVA,**  
**ERSTWHILE NOMINEE DIRECTOR (CO-OPERATIVE SOCIETY)**  
**JAIPUR METALS AND ELECTRICALS LIMITED**  
Near Railway Station, Station Road,  
Jaipur- 302001 (Rajasthan)

...Respondent No. 6

**MR. KANHAIYA LAL SHARMA,**  
**ERSTWHILE NOMINEE DIRECTOR (CO-OPERATIVE SOCIETY)**  
**JAIPUR METALS AND ELECTRICALS LIMITED**  
Near Railway Station, Station Road,  
Jaipur- 302001 (Rajasthan)

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...Respondent No. 7

**STATE OF RAJASTHAN**  
*Through Chief Secretary*  
Secretariat, Government of Rajasthan,  
Janpath, C- Scheme, Jaipur- 302005

...Respondent No. 8

**STATE OF RAJASTHAN**  
*Through Additional Chief Secretary, Department of Industries*  
Secretariat, Government of Rajasthan,  
Janpath, C- Scheme, Jaipur- 302005

...Respondent No. 9

**SHRI MAHDNERA SINGH SHEKHAWAT**  
A-3, Anupam Vihar, Gandhi Path  
West, Near 22 ft. By- Pass, Panche  
Wala, Jaipur

...Respondent No. 10

**SHRI MAHESH CHAND SHARMA**  
43, Patel Nagar, Kalwar Road,  
Govindpura, Jaipur

...Respondent No. 11

**SHRI LALIT MOHAN DUBEY**  
D-247, Anand Vihar, Railway  
Colony, Jagatpura, Jaipur

...Respondent No. 12

**AND IN THE MATTER OF:**  
**IA No. 107/JPR/2020**

**MEMO OF PARTIES**

**ARUNAVA SIKDAR, RESOLUTION PROFESSIONAL**  
**JAIPUR METALS AND ELECTRICALS LIMITED**  
D-3, LGF, Lajpat Nagar Part I,  
New Delhi-110024

...Applicant

Versus

**MR. SANJEEV SAXENA**  
**MANAGING DIRECTOR (POWER SUSPENDED)**

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**JAIPUR METALS AND ELECTRICALS LIMITED**

Near Railway Station, Station Road,  
Jaipur- 302001 (Rajasthan)

**Also At:**

Mahendra Villa, 6/12 SFS, Laxmi  
Marg, Agarwal Farm, Jaipur- 302020

...Respondent No. 1

**MR. K.K. PATHAK**

**CHAIRMAN (POWER SUSPENDED)**

**JAIPUR METALS AND ELECTRICALS LIMITED**

Near Railway Station, Station Road,  
Jaipur- 302001 (Rajasthan)

**Also At:**

I/20 Gandhi Nagar, Near Nehru  
Garden, Tony Road, Jaipur- 302015

...Respondent No. 2

**LAXMI CHAND JAIN, NOMINEE DIRECTOR**

**JAIPUR METALS AND ELECTRICALS LIMITED**

Near Railway Station, Station Road,  
Jaipur- 302001 (Rajasthan)

...Respondent No. 3

**YOGESH KUMAR KAMANI, NOMINEE DIRECTOR**

**JAIPUR METALS AND ELECTRICALS LIMITED**

Near Railway Station, Station Road,  
Jaipur- 302001 (Rajasthan)

...Respondent No. 4

**RAJEEV SRIVASTAVA, NOMINEE DIRECTOR**

**JAIPUR METALS AND ELECTRICALS LIMITED**

Near Railway Station, Station Road,  
Jaipur- 302001 (Rajasthan)

...Respondent No. 5

**KANHAIYA LAL SHARMA, NOMINEE DIRECTOR**

**JAIPUR METALS AND ELECTRICALS LIMITED**

Near Railway Station, Station Road,  
Jaipur- 302001 (Rajasthan)

...Respondent No. 6

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STATE OF RAJASTHAN  
*Through Chief Secretary*  
C Scheme, Secretariat, Tilak Marg,  
Jaipur- 302005

...Respondent No. 7

**AND IN THE MATTER OF:**  
**IA (IBC) No. 346/JPR/2025**

**MEMO OF PARTIES**

STATE OF RAJASTHAN  
*Through Commissioner of Industries*  
Udyog Bhawan, Tilak Marg,  
Jaipur- 302005

...Applicant

MR. ARUNAVA SIKDAR, RESOLUTION PROFESSIONAL  
D-3, LGF, Lajpat Nagar Part I,  
New Delhi-110024

...Respondent No. 1

MR. SANJEEV SAXENA, MANAGING DIRECTOR (SUSPENDED)  
JAIPUR METALS AND ELECTRICALS LTD.  
Near Railway Station, Station Road,  
Jaipur- 302001 (Rajasthan)

...Respondent No. 2

MR. K.K. PATHAK, CHAIRMAN SUSPENDED  
JAIPUR METALS AND ELECTRICALS LIMITED  
Near Railway Station, Station Road,  
Jaipur- 302001 (Rajasthan)

...Respondent No. 3

For the RP : Ashu Kansal, Adv.  
Arunava Sikdar, In person

For the State : Tarun Agarwal, Adv.  
Bhaskar Agarwal, Adv.  
Mitali Karwa, Adv.  
Yuvadhiraj, Adv.

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**Order Pronounced On: 07.11.2025**

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**ORDER**

**Per: Ms. Reeta Kohli, Judicial Member**

1. The reliefs prayed for in the Interlocutory Applications bearing *I.A. No. 99/JPR/2019, I.A. No. 107/JPR/2020, and I.A. No. 346/JPR/2025* hinges on right of the Resolution Professional to take possession of the assets of *Jaipur Metals & Electricals Ltd.* ('Corporate Debtor') from the Suspended Management and the State Government. Thus, for sake of clarity and coherence, all the contentions and averments of the parties raised in the Applications are adjudicated upon together in the instant Order.

**I.A. No. 99/JPR/2019**

2. The Interlocutory Application bearing *I.A. No. 99/JPR/2019* has been filed by *Mr. Arunava Sikdar* ('Resolution Professional'), Resolution Professional of *Jaipur Metals & Electricals Limited*, against *Mr. Sanjeev Saxena* ('Suspended Managing Director') and *Mr. K.K. Pathak* ('Suspended Chairman'), suspended MD and suspended Chairman of the Corporate Debtor, respectively, under Section 19 (3) read with 19(2) of the Insolvency and Bankruptcy Code, 2016 ('IBC' / 'Code') seeking the following reliefs :

“(a) Allow the instant Application;

(b) Direct the Respondent to handover the possession of assets, records, management and affairs of the Corporate Debtor to the Applicant to enable the smooth implementation of the insolvency proceedings;

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(c) Direct the Respondents to extend cooperation to the Applicant in terms of Section 19 of Code;

(d) pass such other order/ directions as this Hon'ble Bench may deem fit and proper in the fact and circumstances of the case.”

3. The brief set of facts leading to filing of the Application bearing I.A. No. 99/JPR/2019 are as follows: -

3.1. It was stated that the Corporate Insolvency Resolution Process ('CIRP') of the Corporate Debtor was initiated by this Adjudicatory Authority vide Order dated 13.04.2018 and Mr. Anil Kumar was appointed as Interim Resolution Professional ('IRP'). It was submitted that a Company Petition (Winding Up Petition) along with other Writ Petitions were pending apropos the Corporate Debtor before the Hon'ble Rajasthan High Court. The Hon'ble High Court vide its Order dated 26.04.2018 stayed the implementation of the CIRP order dated 13.04.2018 passed by this Adjudicatory Authority and vide its Order dated 01.06.2018 the Hon'ble High Court declared the Order of this Adjudicatory Authority dated 13.04.2018 as non-est in law. However, the Hon'ble Apex Court vide its Order dated 12.12.2018 set aside the Order of the Hon'ble High Court and directed that the CIRP of the Corporate Debtor shall proceed from the stage at which it has been left off.

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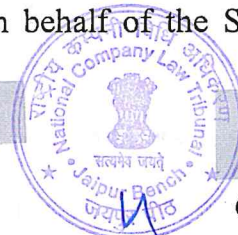
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- 3.2. Thereafter, the Applicant herein was appointed as the Resolution Professional by the CoC and the same was affirmed by this Adjudicating Authority *vide* its Order dated 11.01.2019.
- 3.3. Subsequently, the Resolution Professional *vide* email dated 18.01.2019 directed the Respondents to transfer possession of assets, records, and affairs of the Corporate Debtor. Further, in the email, the Resolution Professional also informed the Respondents that he will be visiting the premises of the Corporate Debtor on 22.01.2019 for taking its possession. In their reply dated 21.01.2019, the Respondents stated that Respondent No. 2 is not available on the said dates and asked the Resolution Professional to schedule his visit post 18.01.2019.
- 3.4. The Resolution Professional visited the office of the Respondents on 22.01.2019 where he was assured that some concrete decision will be taken qua handing over of the possession of the Corporate Debtor shortly. Thereafter, on the basis of the assurance given by the Respondents, the Resolution Professional *vide* his email dated 24.01.2019 informed the Respondents that he will not take any steps to take possession of the Corporate Debtor till 28.01.2019.
- 3.5. In the meantime, Respondent No. 1, suspended director of the Corporate Debtor, *vide* email dated 28.01.2019 submitted a claim against the Corporate Debtor on behalf of the State of Rajasthan.

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However, the claim form was neither filled properly nor signed by the Authorised Officer and the amount of claim was not mentioned in the Form. Subsequently, on 31.01.2019, the Resolution Professional sought submission of Form C for admission of claim along with necessary documents for verification of the same.

3.6. It was stated that in the second CoC meeting dated 30.01.2019, Respondent No. 1 informed the Resolution Professional that the matter will be resolved at the earliest. The minutes of the second CoC meeting were circulated to all the members of the CoC including the Respondents.

3.7. Further, on 02.02.2019, the Resolution Professional informed the Respondents that he will visit Jaipur along with his team on 04.02.2019 to take possession of the Corporate Debtor. However, on 04.02.2019, when the Resolution Professional visited the premises of the Corporate Debtor, he was informed that the Respondents will require few days to transfer the possession and record of the Corporate Debtor. It was stated that post 04.02.2019, the Respondents have stopped responding to the emails and calls of the Resolution Professional. Consequently, the Resolution Professional informed the Respondents about their non-cooperation via email dated 07.02.2019.

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3.8. It was submitted that the Resolution Professional preferred a Contempt Petition bearing no. 401/2019 before the Hon'ble Apex Court against the Respondents for preventing him from carrying out its duties in terms of the Order dated 12.12.2018 passed in *Civil Appeal No. 12023/2018*. The Hon'ble Supreme Court vide its Order dated 01.04.2019 was pleased to grant liberty to the Resolution Professional to withdraw the Contempt Petition and prefer the same before the appropriate Adjudicating Authority.

3.9. It was contended that the conduct of the Respondents clearly demonstrates that they have failed to carry out their duties and render required assistance to the Resolution Professional. Further, they have derailed the complete CIRP proceedings by not handing over the required documents and possession of the Corporate Debtor. The conduct of the Respondents has resulted in considerable delay in the CIRP of the Corporate Debtor. Hence, the instant Application has been filed under Section 19 of the Code seeking appropriate directions.

4. The Respondents in their Reply to the Application bearing *I.A. No. 99/JPR/2019* has raised the following contentions: -

4.1. It was stated that Respondent No. 1 is serving as *Joint Director, Industries, Government of Rajasthan*, and is the ex-officio MD of the Corporate Debtor and Respondent No. 2 is serving as *Commissioner,*

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*Industries and CSR* and ex-officio Chairman of the Corporate Debtor. The Answering Respondents were mere nominees of the State Government and their appointment were made in furtherance to the ordinance dated 24.06.1986 which later became *Jaipur Metals and Electricals Limited (Acquisition of Shares) Act, 1986* ('JMEL Act'). It was highlighted that Section 4 of the JMEL Act empowers the State Government to make such provisions by way of notifications regarding changes in the board of directors of the Corporate Debtor.

- 4.2. It was submitted that the Corporate Debtor is a non-government company incorporate on 30.08.1943 and is registered with RoC, Jaipur. Further, *Jaipur Metals and Electricals Co-operative Credit and Thrift Society Ltd.* holds 59.49% shares in the Corporate Debtor and the State Government holds 20.23% shares in the Corporate Debtor. In 1977, the management of the Corporate Debtor was taken over by the State of Rajasthan due to its consistent under-performance. Further, on 30.09.1997, the account of the Corporate Debtor was declared as a non-performing asset since its net-worth had turned negative. Moreover, the production at the factory premises of the Corporate Debtor was stopped on 30.09.2000 and over 1500 workmen were laid off. Consequently, a reference was made to the

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*Board for Industrial and Financial Reconstruction* ('BIFR') under the *Sick Industrial Companies (Special Provisions) Act, 1985* ('SIC Act').

4.3. That on 26.09.2002, the BIFR was prima facie of the opinion that the Corporate Debtor ought to be wound up and the said recommendation was sent to the High Court. Consequently, the Hon'ble Rajasthan High Court registered the case as *Company Petition No. 19/2009*. The Hon'ble High Court vide Order dated 07.12.2017 in *Writ Petition No. 504/2000* filed by a worker union of the Corporate Debtor directed the official liquidator to join in the evaluation of the goods and materials of the Corporate Debtor to repay the dues of the workers.

4.4. In the meantime, the captioned Company Petition bearing *C.P (IB) No. 54 (PB)/2018* was preferred by *Alchemist Asset and Reconstruction Company Limited* and the same was admitted on 13.04.2018. Thereafter, the CIRP order was stayed by the Hon'ble High Court and vide Order dated 01.06.2018, the Hon'ble High Court refused to transfer the winding up proceedings to this Adjudicatory Authority. The Hon'ble Apex Court vide its judgment dated 12.12.2018 set aside the Order of the Hon'ble High Court dated 01.06.2018 and restored the CIRP of the Corporate Debtor.

4.5. Further, another Writ Petition bearing *S.B.C.W 19134/2017* was filed by one *Nirban Industrial Components Pvt. Ltd.* wherein the Hon'ble

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High Court vide its Order dated 14.11.2017 granted stay on transfer of the property belonging to the Corporate Debtor and the same is still operative. The aforementioned stay order is one of the reasons due to which the assets of the Corporate Debtor were not handed over to the Resolution Professional.

4.6. Besides the aforementioned reasons, the Resolution Professional was informed by the Respondents that the Corporate Debtor had been closed since 2000 and therefore, it would take time to collect the essential inventory of assets and the respective records for effective handing over of possession to the Resolution Professional. Moreover, various labour unions have voiced their apprehension about the independent and impartial functioning of the Resolution Professional resulting in possible law and order situation in the event of handing over of possession to the Resolution Professional. In this regard, the Respondents sought opinion from the office of police Commissionerate. In the report dated 07.03.2019, the Respondents were informed that there has been a substantial growth in the numbers of protestors outside the Corporate Debtor's premises and the same can lead to a serious law and order situation.

4.7. It was submitted that apropos the issue of handing over of the possession of the Corporate Debtor, the Respondents have already

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escalated the matter to the State Government along with all the developments including the Order dated 13.04.2018 and the response of the State Government is still awaited.

5. During the course of hearing, this Adjudicatory Authority *vide* its Order dated 13.06.2019 gave directions to implead the other directors of the Corporate Debtor and the State Government as a party in the *I.A. no. 99/JPR/2019*. Consequently, *Mr. Shrimat Pandey* ('Respondent No. 3'), *Mr. Laxmi Chand Jain* ('Respondent No. 4'), *Mr. Yogesh Kumar Kamani* ('Respondent No. 5'), *Mr. Rajeev Srivastava* ('Respondent No. 6'), *Mr. Kanhaiya Lal Sharma* ('Respondent No. 7'), *Mr. Devendra Bhushan Gupta*, Chief Secretary, Govt. of Rajasthan ('Respondent No. 8'), *Dr. Subodh Agarwal*, Additional Chief Secretary, Department of Industries ('Respondent No. 9'), *Mr. Mahendra Singh Shekhawat* ('Respondent No. 10'), *Mr. Mahesh Chand Sharma* ('Respondent No. 11'), and *Mr. Lalit Mohan Dubey* ('Respondent No. 12') were impleaded as Respondents in the *I.A. no. 99/JPR/2019*.
6. Respondent No. 3 namely, *Mr. Shreemat Pandey*, submitted his Reply wherein he stated that he ceased to be a nominee director of the Corporate Debtor with effect from 16.06.2010 and hence, have no authority apropos the Corporate Debtor. Further, Respondent No. 4 namely, *Mr. Laxmi Chand Jain*, filed an affidavit and stated that he was holding the charge of Managing

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Director of the Corporate Debtor till 04.07.2018, however, he has handed over the charge of Managing Director to *Mr. Sanjeev Saxena* i.e., Respondent No. 1 w.e.f. 04.07.2018.

7. Respondent No. 5 namely, *Yogesh Kumar Kamani*; Respondent No. 6 namely, *Mr. Rajeev Srivastava*; and Respondent No. 7 namely, *Mr. Laxmi Chand Jain*, filed their Affidavits and stated that they were workers nominee directors in the Corporate Debtor however, they had been let go of their duties as nominee directors in the year 2007.
8. Further, Respondent No. 10 namely, *Shri Mahendra Singh Shekhawat*; Respondent No. 11 namely, *Shri Mahesh Chand Sharma*; and Respondent No. 12 namely, *Shri Lalit Mohan Dubey* filed their Reply *vide* Diary No. 1404/2021 dated 19.07.2021. In their Reply, Respondent No. 10, 11, and 12 stated that post initiation of CIRP, fresh elections of the JMEL society were conducted and the Answering Respondents were nominated to the board of directors of the Corporate Debtor *vide* communication dated 18.10.2018. It was submitted that the Answering Respondents are neither in possession of the assets of the Corporate Debtor nor they are creating any hinderance in the functioning of the Corporate Debtor. Further, the Answering Respondents prayed that they should be allowed to attend the CoC meetings of the Corporate Debtor to protect and represent the interest of workmen.

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9. Respondent No. 8 i.e., Chief Secretary, Government of Rajasthan, and Respondent No. 9 i.e., Additional Chief Secretary, Department of Industries, Government of Rajasthan filed their reply and written submissions made the following submissions: -

9.1. The Answering Respondents reiterated the contention of Respondent No. 1 and 2 apropos the stay order passed by Hon'ble High Court in *S.B.C.W No. 19134/2017* titled as *M/s Nirban Industrial Components Pvt. Ltd. v/s State* concerning stay on transfer of properties belonging to the Corporate Debtor.

9.2. Further, it was contended that since the initiation of the CIRP, the State has received various representations from the workers and employees of the Corporate Debtor. The State Government is making every endeavour to protect the interest of workers and in furtherance to the same, a proposal for establishment of a High-Level Committee ('HLC') is being planned under the supervision of Chief Minister of Rajasthan. It was submitted that the HLC would not only keep the interest of the workers of the Corporate Debtor but would also lay down a proposal for paying off the financial creditors including the ARC.

9.3. It was also stated that the Resolution Professional and his team have already been given the access to the premises for carrying out their

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roles and responsibilities under the Code. Further, it was contended that the State has the duty to maintain law and order which would certainly get affected if the possession of the premises is handed over to the Resolution Professional as it would impact the sentiments of hundreds of workers who have no faith on the impartiality of the RP.

9.4. Further, it was submitted that the State had duly extended full cooperation to the Resolution Professional and the same has been duly recorded by this Adjudicating Authority in its Orders dated 10.10.2023, 06.12.2023, 12.02.2024, 01.04.2024, 21.05.2024, 16.07.2024, 12.08.2024, 16.10.2024, 03.02.2025, 30.05.2025, 07.07.2025, and 30.07.2025. Hence, the allegation of the Resolution Professional concerning non-cooperation by the State are baseless.

9.5. It was contended that there is no statutory basis under Section 19 of the Code to compel the State to hand over possession. Section 19 binds the personnel of the Corporate Debtor and its promoters/directors, not a sovereign state whose control arises under a distinct legislative enactment. So, the State holds control over the Corporate Debtor not as a private promoter, but as a sovereign custodian, and thus Section 19 ought not to be applied to the State. Hence, the reliefs claimed under the instant Application are wholly misconceived.

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9.6. Besides the aforementioned contentions, it was submitted that the State is a shareholder and a financial creditor of the Corporate Debtor. Further, in addition to the financial assistance extended by the State, the Corporate Debtor took financial assistance from IDBI Bank and SBBJ and the same were later transferred to *Alchemist Asset Reconstruction Company Ltd.* The particulars of the assignment of debt to AARC are not known to the State Government, therefore, Resolution Professional shall be directed to submit details regarding the aforementioned assignment of debts.

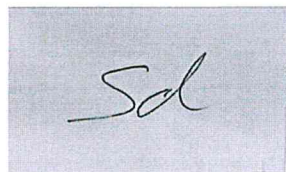
**I.A. No. 107/JPR/2020**

10. The Interlocutory Application bearing IA No. 107/JPR/2020 has been filed by the Resolution Professional under Section 60(5) of the Code against *Mr. Sanjeev Saxena*, Managing Director of the Corporate Debtor; *Mr. K.K. Pathak*, Chairman of the Corporate Debtor; the Nominee Directors of the Corporate Debtor and the State Government seeking the following reliefs: -

*“Direct the State Government of Rajasthan to handover the possession of assets, records, control and management of the Corporate Debtor to the Applicant/ Resolution Professional.”*

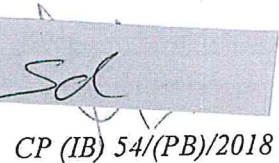
11. It was submitted that during the pendency of *I.A. No. 99/JPR/2019*, the Resolution Professional preferred an appeal before the Hon’ble NCLAT against the Order dated 13.06.2019 whereby this Adjudicatory Authority

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directed the Resolution Professional to implead the directors and the State Government as a party to the I.A. No. 99/JPR/2019. The said Appeal was disposed of by Hon'ble NCLAT vide Order dated 05.07.2019 wherein it was observed that: -

*"2. From the impugned order dated 13th June, 2019 passed by the Adjudicating Authority (National Company Law Tribunal), Jaipur, we find that the Appellant has been asked to implead the Government of Rajasthan as party Respondent. In the circumstances, we are of the view that the 'Resolution Professional' should implead the Chief Secretary of the Government of Rajasthan and the concerned Secretary of the Department of Rajasthan as party Respondent and will serve a copy of this order along with notice of the Adjudicating Authority for their appearance. If this order is served on the Chief Secretary, Government of Rajasthan, he will take steps and ask its officer and the Secretary of the concerned Department to appear before the Adjudicating Authority (National Company Law Tribunal) Jaipur in IB No. 54(PB)/ 2018 on the next date. The Adjudicating Authority in its turn will pass appropriate order preferable within three weeks in terms of the Insolvency and Bankruptcy Code, 2016 to ensure that the possession of the asset, control and management of the 'Corporate Debtor' is handed over to the 'Resolution Professional'."*

12. It was submitted that despite clear directions of Hon'ble NCLAT, the Resolution Professional had issued repeated requests and reminders to the Respondents. However, the possession of assets, control and management of the Corporate Debtor has not been handed over to the Resolution

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Professional as mandatorily required under Section 25(2)(a) of the Code. Hence, the instant Petition has been filed seeking possession of the assets and management of the Corporate Debtor in terms of the Order of the Hon'ble NCLAT dated 05.07.2019.

**IA (IBC) 346/JPR/2025**

13. The IA (IBC) 346/JPR/2025 has been filed by State of Rajasthan under Section 60(5) of the Code against the Resolution Professional, the Managing Director, and the Chairman of the Corporate Debtor seeking the following reliefs: -

*“Maintain status quo with respect to the physical possession of the assets of JMEL, allowing the State Government to continue as custodian, until final disposal of Civil Appeals No. 3173/2023 and 3673/2023 pending before the Hon'ble Supreme Court or any settlement reached thereunder, whichever is earlier;”*

14. It was stated that in the *Civil Appeals No. 3173/2023 and 3673/2023*, the State Government was specifically granted the opportunity vide Order dated 03.10.2023 for submitting a proposal to the Respondents to settle the matter. In pursuance of the Order of the Hon'ble Apex Court, various meetings have taken place between the parties to explore the settlement.
15. Further, it was contended that no prejudice will be caused to the Resolution Professional or any other stakeholders if the possession of the Corporate Debtor is retained by the State Government until any further order of the

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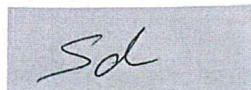
Hon'ble Apex Court. Further, the possession of the properties of the Corporate Debtor has remained with the State Government since initiation of CIRP and the same is being held by the State as a custodian. Moreover, if the possession of the said properties is directed to be handed over at this stage, the same will derail the ongoing settlement talks between the parties. Hence, the instant Application has been filed seeking status quo apropos possession of the Corporate Debtor.

**Findings and Analysis**

16. We have heard the Ld. Counsels for the parties and have perused the Interlocutory Applications, Replies, Affidavits, Written Submissions and the Documents enclosed therewith.
17. The moot question of law which arises for our consideration in the instant case is: *Whether a State Government and its officials in the capacity of suspended management can deny handing over the assets and management of a Corporate Debtor to the Resolution Professional?*
18. Before proceeding further with the adjudication of the issue at hand, it is pertinent to take note of Section 18 and Section 25 of the Code which talks about the duties of the Interim Resolution Professional and Resolution Professional, respectively. For ease of convenience, the aforementioned Sections are reproduced hereunder: -

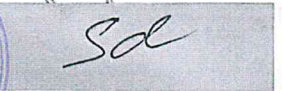
***Section 18: Duties of interim resolution professional.***

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18. (1) *The interim resolution professional shall perform the following duties, namely:—*

(a) *collect all information relating to the assets, finances and operations of the corporate debtor for determining the financial position of the corporate debtor, including information relating to—*

- (i) *business operations for the previous two years;*
- (ii) *financial and operational payments for the previous two years;*
- (iii) *list of assets and liabilities as on the initiation date; and*
- (iv) *such other matters as may be specified;*

(b) *receive and collate all the claims submitted by creditors to him, pursuant to the public announcement made under sections 13 and 15;*

(c) *constitute a committee of creditors;*

(d) *monitor the assets of the corporate debtor and manage its operations until a resolution professional is appointed by the committee of creditors;*

(e) *file information collected with the information utility, if necessary; and*

(f) *take control and custody of any asset over which the corporate debtor has ownership rights as recorded in the balance sheet of the corporate debtor, or with information utility or the depository of securities or any other registry that records the ownership of assets including—*

(i) *assets over which the corporate debtor has ownership rights which may be located in a foreign country;*

(ii) *assets that may or may not be in possession of the corporate debtor;*

(iii) *tangible assets, whether movable or immovable;*

(iv) *intangible assets including intellectual property;*

(v) *securities including shares held in any subsidiary of the corporate debtor, financial instruments, insurance policies;*

(vi) *assets subject to the determination of ownership by a court or authority;*

(g) *to perform such other duties as may be specified by the Board.*

*Explanation.—For the purposes of this 1[section], the term “assets” shall not include the following, namely:—*

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- (a) assets owned by a third party in possession of the corporate debtor held under trust or under contractual arrangements including bailment;
- (b) assets of any Indian or foreign subsidiary of the corporate debtor; and
- (c) such other assets as may be notified by the Central Government in consultation with any financial sector regulator.

**Section 25: Duties of resolution professional.**

\*25. (1) It shall be the duty of the resolution professional to preserve and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor.

(2) For the purposes of sub-section (1), the resolution professional shall undertake the following actions, namely:—

- (a) take immediate custody and control of all the assets of the corporate debtor, including the business records of the corporate debtor;
- (b) represent and act on behalf of the corporate debtor with third parties, exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial or arbitration proceedings;
- (c) raise interim finances subject to the approval of the committee of creditors under section 28;
- (d) appoint accountants, legal or other professionals in the manner as specified by Board;
- (e) maintain an updated list of claims;
- (f) convene and attend all meetings of the committee of creditors;
- (g) prepare the information memorandum in accordance with section 29;
- (h) invite prospective resolution applicants, who fulfil such criteria as may be laid down by him with the approval of committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified by the Board, to submit a resolution plan or plans.
- (i) present all resolution plans at the meetings of the committee of creditors;

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- (j) file application for avoidance of transactions in accordance with Chapter III, if any; and
- (k) such other actions as may be specified by the Board.

19. On a reading of the aforementioned Sections, it becomes conspicuous that upon commencement of the Corporate Insolvency Resolution Process (CIRP), Section 18 (f) of the Code mandates the Interim Resolution Professional with statutory obligation to take ***control and custody*** of all assets over which the Corporate Debtor has ownership rights, as recorded in its balance sheet or with any information utility or other statutory registry. Further, upon the appointment of the Resolution Professional by the Committee of Creditors, Section 25 of the Code mandates the Resolution Professional to preserve and protect the assets of the Corporate Debtor and to manage its operations as a going concern. In particular, Section 25(2)(a) of the Code empowers and mandates the Resolution Professional to take **immediate custody and control** of all the assets, records, and business operations of the Corporate Debtor.
20. Read conjointly with Section 17 of the Code which suspends the powers of the Board of Directors and vests the management of the affairs of the Corporate Debtor in the Resolution Professional, the Code unequivocally confers upon the Resolution Professional the right and duty to assume possession and control of the assets, books, and records of the Corporate Debtor. Accordingly, under Sections 18 and 25 of the Code, the Resolution

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Professional is legally empowered and duty-bound to take possession, custody, and control of the Corporate Debtor's assets for the purpose of preserving their value and facilitating an effective and equitable resolution of the Corporate Debtor.

21. The object of the aforementioned provisions is to ensure the protection and preservation of the assets of the Corporate Debtor during the pendency of the CIRP and allow unhindered access of the assets of the Corporate Debtor to the IRP/RP to expeditiously complete the time bound Corporate Insolvency Resolution Process.
22. Besides the Statutory duties cast upon the Resolution Professional to take over the control and possession of the assets of the Corporate Debtor, Section 19(1) of the Code and Regulation 3A of the IBBI (Resolution Process for Corporate Persons) Regulations, 2016 mandates the personnel of the Corporate Debtor to handover the possession of the record along with the assets of the Corporate Debtor to the Resolution Professional. For reference, Section 19(1) of the Code and Regulation 3A of the IBBI (Resolution Process for Corporate Persons) Regulations, 2016 ('CIRP Regulation') are reproduced hereunder: -

***"Section 19: Personnel to extend cooperation to interim resolution professional.***

***19. (1) 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***

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professional as may be required by him in managing the affairs of the corporate debtor.”

**Regulation 3A. Assistance and cooperation by the personnel of the corporate debtor.**

3A. (1) The interim resolution professional or resolution professional, as the case may be, shall take custody and control as specified under this regulation from the personnel of the corporate debtor, its promoters or any other person associated with the management of the corporate debtor as the case may be, of the following:-

(a) the records of information relating to the assets, finances and operations of the corporate debtor referred in clause (a) of section 18 and such other information required under regulation 36;

(b) the assets recorded in the balance sheet of the corporate debtor or in any other records referred in clause (f) of section 18.

(2) The personnel of the corporate debtor, its promoters or any other person associated with the management of the corporate debtor shall provide to the interim resolution professional or resolution professional, as the case may be, a list of assets and records while handing over their custody and control, and the interim resolution professional or resolution professional may, after taking such custody and control, if deemed necessary, identify person(s) in whose possession these assets and records will be held.

(3) Where any asset or record has not been handed over or the list has not been provided under sub-regulation (2), the interim resolution professional or resolution professional, as the case may be, shall himself prepare a list of assets and records while taking custody and control of assets and records, and the interim resolution professional or resolution professional may, after taking such custody and control, if deemed necessary, identify person(s) in whose possession these assets and records will be held.

(4) Each list of assets and records under sub-regulation (2) and (3) shall be signed by the parties present and by at least two individuals who have witnessed the act of taking control and custody of such assets and records.

(5) The interim resolution professional or resolution professional, as the case may be, shall requisition from the personnel of the corporate

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*debtor, its promoters or any other person associated with the management of the corporate debtor as the case maybe, the information relating to the assets, finances and operations of the corporate debtor referred in clause (a) of section 18 and such information required under regulation 36 which were required to be maintained by the corporate debtor but have not yet been handed over.*

*(6) The interim resolution professional or resolution professional, as the case may be, shall requisition from the personnel of the corporate debtor, its promoters or any other person associated with the management of the corporate debtor as the case maybe, the assets which are recorded in the balance sheet or in any other records referred in clause (f) of section 18 and whose custody has not been handed over.*

*(7) An application made under sub-section (2) of section 19 in respect of failure to provide any asset or record as requisitioned under the Code and this regulation, shall show presence of such asset or record in the notice of requisition and absence of such asset or record in the list of assets and records taken in control and custody under sub-regulation (2) and (3).*

23. On a combined reading of Section 19(1) of the IBC and Regulation 3A of the CIRP Regulations it transpires that the management and personnel of the Corporate Debtor are under a statutory obligation to handover the custody and control of record of the Corporate Debtor and its assets to the IRP/RP. Further, the aforementioned provisions ensure that the suspended management and personnel of the Corporate Debtor remain under a continuing obligation to assist and cooperate with the IRP/RP.
24. At this juncture, it becomes pertinent to refer to the judgment of the Hon'ble NCLAT in the case of *Shailesh Chawla & Ors v/s Vinod Kumar Mahajan & Ors* [2020] ibclaw.in 90 NCLAT wherein it was observed that: -

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“36. It is to be pointed out that Section 19 of the ‘I&B’ Code imposes an obligation on the personnel and promoters of the ‘Corporate Debtor’ to extend all assistance and cooperation with the ‘Interim Resolution Professional’ may require the management of the affairs of the ‘Corporate Debtor’, ‘Personnel’ refers to directors, managers, key managerial personnel, designated partners and employees, if any of the ‘Corporate Debtor’ by means of Section 5(23) of the Code...”

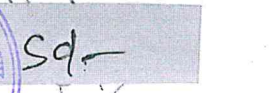
25. Thus, there remains no iota of doubt concerning the responsibility of the suspended management of the Corporate Debtor to render full and complete cooperation and handover the assets of the Corporate Debtor to the Resolution Professional. Further, the obligation upon the suspended management and personnel of the Corporate Debtor is necessary for facilitating a fair and expeditious resolution process.
26. Having taken note of the obligations of the suspended management and personnel of the Corporate Debtor as envisaged under the Code, it is now appropriate for us to return to the facts of this case and adjudicate upon the rival contentions of the Resolution Professional and the State of Rajasthan concerning the possession of assets of the Corporate Debtor.
27. The Corporate Debtor is a company limited by shares which was incorporated on 30.08.1943 and is further classified as non-government company. As per the submissions of the parties, *Jaipur Metals and Electricals Co-operative Credit and Thrift Society Ltd.* has a shareholding of 59.49% and the State of Rajasthan owns 20.23% shareholding in the

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Corporate Debtor. Further, in the year 1977, the management and control of the Corporate Debtor was taken over by the State of Rajasthan due to its consistent under-performance. Subsequently, on 30.09.1997, the account of the Corporate Debtor was declared as a non-performing asset. Thereafter, the factory premises stopped functioning on 30.09.2000 and the workmen employed with the Corporate Debtor were laid off and a reference was made to the Board for Industrial and Financial Reconstruction under the Sick Industrial Companies (Special Provisions) Act, 1985.

28. During the pendency of the proceedings under the Sick Industrial Companies (Special Provisions) Act, 1985, the CIRP of the Corporate Debtor was initiated *vide* Order dated 13.04.2018 passed in Captioned Company Petition bearing no. *CP (IB) No. 54 (PB)/ 2018*. The Order concerning CIRP of the Corporate Debtor was affirmed by the Judgment of the Hon'ble Apex Court dated 12.12.2018 in *Civil Appeal No. 12023 of 2018* wherein the Hon'ble Apex Court observed that the writ petitions that are pending before the Hon'ble High Court have to be disposed of in light of proceedings under the Insolvency and Bankruptcy Code.
29. Thus, on perusal of the pleadings of the parties and the documents submitted therewith it transpires that the control and management of the Corporate Debtor vests till date with the State Government of Rajasthan and its officials. Moreover, the Managing Director, and the Chairman of the

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Corporate Debtor are officials of State which were appointed by the State Government in pursuance of Section 4 of Jaipur Metals and Electricals Ltd. Act 1986. For ease of reference, Section 4 of the Act is reproduced hereunder: -

***“Section 4- Management of the Company***

*For the purpose of enabling the Company to function effectively, the State Government may, by notification, make such provisions (including changes in the Board of Directors, and amendments in the memorandum and articles of association of the Company) as it may consider necessary and the provisions so made shall have effect so long as they are not inconsistent with the provisions contained in the Companies Act, 1956.”*

30. Thus, it is an admitted fact that the control of the Corporate Debtor vested with the State of Rajasthan and the same was exercised via appointment of government officials to the posts of Managing Director and Chairman of the Corporate Debtor, respectively. Further, in so far as the current possession of the assets and records of the Corporate Debtor is concerned, as per the Application bearing IA (IBC) No. 346/JPR/2025 filed by State of Rajasthan through Commissioner of Industries, the possession of the Corporate Debtor vests with the State Government. The relevant para of the Application bearing IA (IBC) No. 346/JPR/2025 is reproduced hereunder: -

***“9. That it is respectfully submitted that the possession of the properties in question is currently with the State Government, has remained so since initiation of CIRP and even during the pendency of the Civil***

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*Appeals before the Hon'ble Supreme Court. The State holds the said properties purely in its capacity as custodian and is not claiming any ownership beyond what is permitted under law."*

31. Thus, indisputably post initiation of CIRP vide Order dated 13.04.2018 and confirmation of the same by the Hon'ble Apex Court vide its Order dated 12.12.2018, the State Government and its officials have till date not transferred the possession of the assets of the Corporate Debtor and its record to the Resolution Professional despite the repeated requests of the Resolution Professional since 2018.
32. As enumerated above, the position of law in this regard is well settled that once CIRP of a Corporate Debtor is initiated, Section 19(1) of the Code and Regulation 3A of the CIRP Regulations casts a statutory obligation and duty upon the management and personnel of the Corporate Debtor to handover the custody and control of the assets and record of the Corporate Debtor to the Resolution Professional. Further, a combined reading of Section 18 and Section 25 of the Code which deals with duties of Interim Resolution Professional and Resolution Professional along with Section 17 of the Code which pertains to management of affairs of Corporate Debtor, it becomes incontrovertible that the Code confers upon the Resolution Professional the rights and duties to assume possession and control of the assets, books, and records of the Corporate Debtor. Moreover, the Resolution Professional is legally empowered and duty-bound to take possession, custody, and control

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of the Corporate Debtor's assets and its record to effectuate the Resolution Process.

33. At this point, it is relevant to refer to the justifications and contentions raised by the officials who have been holding the position of suspended MD and Chairman of the Corporate Debtor and the State Government to justify their departure from the procedure prescribed under the Insolvency and Bankruptcy Code. It was urged that the possession of the Corporate Debtor cannot be handed over as the Hon'ble Rajasthan High Court has granted a stay over transfer of properties of the Corporate Debtor in *S.B. Civil Writ Petition No. 19134/2017 titled as M/s Nirban Industrial Components Pvt. Ltd. v/s State & Ors.* The aforementioned contention does not hold any merit as the said Writ Petition was dismissed as having been rendered infructuous by the Hon'ble High Court *vide* Judgment dated 29.11.2019.
34. Further, in so far as the averment that the State Government was granted the opportunity to settle the matter with concerned parties by the Hon'ble Apex Court in *Civil Appeals No. 3173/2023 and 3673/2023* *vide* Order dated 03.10.2023 is concerned, it is relevant to note that the said appeals were dismissed by the Hon'ble Apex Court *vide* Order dated 16.10.2025. The relevant extract of the Order dated 16.10.2025 is reproduced hereunder: -

*"5. We are informed that the talks for the purpose of settlement have failed. It appears that the parties have not been able to arrive at any amicable settlement. In such circumstances and more particularly in*

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*view of the order passed by a coordinate Bench of this Court dated 03.10.2023, nothing further is required to be done.*

*6. With the aforesaid, these appeals are, accordingly, dismissed.”*

35. Further, in the *Civil Appeals No. 3173/2023 and 3673/2023* the Hon'ble Apex Court did not grant any stay over the proceedings under the Code, rather the Hon'ble Supreme Court in the Civil Appeals in its Orders dated 05.12.2023, 05.02.2024, 18.03.2024 categorically observed that the proceedings under the Insolvency and Bankruptcy Code, 2016 shall continue. Thus, the Government officials cannot be permitted to use the pendency of Civil Appeals as a shield for violating their statutory duties and provisions of the Code.
36. Hence, as on date neither there is any subsisting stay by the Hon'ble High Court nor any Civil Appeal apropos settlement talks is pending before the Hon'ble Apex Court.
37. In addition to the aforementioned contentions, it was urged by the State and its Officials that Section 19 of the Code cannot be applied to a sovereign state whose control arises under a distinct legislative enactment. The State holds control over the Corporate Debtor not as a private promoter, but as a sovereign custodian, and thus Section 19 ought not to be applied to the State.
38. Concerning the non-applicability of Section 19 to the State, it is relevant to take note of the fact that Section 19(1) of the Code uses the words 'personnel

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of the corporate debtor, its promoters or any other person associated with the management of the corporate debtor.'

39. The aforementioned Section does not discriminate between private individuals and government officials with whom the control and management of the Corporate Debtor vests. Further, if the argument raised by the officials of the government is accepted then the implementation of the Code will be left at the mercy of the State Officials who can sabotage the proceedings at their whims and fancies. At this stage, it is pertinent to invoke the insightful words of Thomas Fuller: "*Be ye never so high, the law is above you.*"
40. Further, the State Officials cannot be allowed to violate the obligations in capacity of management of the Corporate Debtor and take shelter behind the plea of sovereign State. In the instant case, as per the Memorandum of Association of the Corporate Debtor, it was engaged in the business of carrying out trades and business in relation to iron-masters, steelmakers, steel converters etc. The aforementioned functions do not fall within the realms of sovereign functions of the State and thus, the State Officials cannot claim the defence of sovereign immunity in the instant case.
41. It was also contended by the Suspended Management and the State of Rajasthan that the Resolution Professional has been given access of the premises of the Corporate Debtor for carrying out their roles and

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responsibilities, thus the issue of non-cooperation does not arise. In this regard, it is pertinent to refer to the judgment of the Hon'ble NCLAT in the case of *M. Bhaskaran and Anr. v/s Sandeep Kothari* (2025) ibclaw.in 780 NCLAT wherein it was observed that: -

*4. The Learned Counsel for the Appellants has pressed for handing over the symbolic possession of the assets of the Corporate Debtor, in the light of the consequences that, were flowing from the CIRP order dated 18.10.2024. But he has not been able to substantiate as to from where the concept of symbolic possession has been derived by him, for the purpose of the proceedings of CIRP, which has commenced under Section 10 of the I & B Code, 2016. No plausible argument for the said contention has been extended by the Learned Counsel for the Appellants, except for that, he is expected to hand over only the symbolic possession of the assets of the Corporate Debtor to the IRP.*

*5. The Learned Counsel for the Respondent vehemently opposes the proceedings of this Company Appeal, on the ground that, there is no concept of the assets of the Corporate Debtor of symbolic possession available under I & B Code and that, particularly, when it happens to be a proceeding under Section 10 of the I & B Code, where the Corporate Debtor itself has initiated CIRP, if itself has got no right as such to retain the possession of the assets of the Corporate Debtor, as it would be falling well within the domain of Sub-Section (f) of Section 18 of the I & B Code, 2016, which prescribes for that, the IRP, having been appointed by virtue of an order dated 18.10.2024 was supposed to take control and custody of the assets of the Corporate Debtor over, which the Corporate Debtor has ownership rights as recorded in the balance sheets of the Corporate Debtor, in the records of information*

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*utility, depository of securities and any other registry that records the ownership of assets as elaborated under various sub-clauses contained under Sub-Clause (f) of Section 18 of the I & B Code. Since Section 18 is clear in its mandate that, it is rather the responsibility of the IRP to take control over any asset over which the Corporate Debtor has ownership rights, there cannot be any reason as such for handing over of a symbolic possession of such assets as being prayed by the Appellants. Thus, the nature of the relief sought for in the IA i.e., IA(IBC)/913(CHE)/2025 and consequently in this instant Company Appeal, is alien to the concept of the CIRP Proceedings under Section 10 of the I & B Code which could not have been granted by Learned NCLT and which cannot be granted by this Appellate Tribunal under the I & B Code. Thus, allowing of the application filed by the IRP by the Tribunal on the ground that since the CIRP Process has been ordered, as back as on 18.10.2024 and ever since then, the possession has not been handed over, and consequent issues of directions the Appellants herein to handover the possession of the assets of Corporate Debtor to the RP is not contrary to any of the provisions contained under the I & B Code. Neither it has been pointed out as such by the Appellant's Counsel, who is pleading for a direction to hand over a symbolic possession of the assets of the Corporate Debtor.*

42. On perusal of the Judgment of the Hon'ble NCLAT, it becomes conspicuous that the Code envisages handing over of actual control of the assets and records of the Corporate Debtor to the Resolution Professional. The concept of symbolic possession is alien to the Code. Thus, the Government Officials and Suspended Management cannot shy away from their statutory duties by

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stating that they have granted access of the premises of the Corporate Debtor to the Resolution Professional.

43. Besides, the aforementioned contentions, it was argued that the workers unions do not have any faith in the functioning of the Resolution Professional and handing over of the possession will create a law-and-order situation. To deal with the contention, it is pertinent to mention that the State Government and its Officials have made the said allegation against the working of the Resolution Professional solely on the basis of a press note issued by a worker's union and there is no document on record to substantiate the said allegation qua the working of the Resolution Professional. At this juncture, it is relevant to take note of the fact that as per the scheme of the Code, Resolution Professional is an officer of the Court and is entrusted with carrying out the CIRP of a Corporate Debtor. The State Government and its officials cannot make bald and baseless allegations about a Resolution Professional without substantiating the same.
44. It is pertinent to note that the Code empowers the Committee of Creditors to make decisions concerning the functioning of the Resolution Professional and change of the Resolution Professional. Thus, on mere baseless allegations and apprehensions, the Government Officials cannot refuse to handover the possession of the assets of the Corporate Debtor and obstruct the Resolution Professional in performing his statutory duties. If the State

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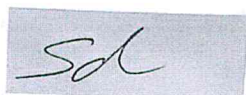
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Officials were apprehensive of a law-and-order situation, they should have provided the Resolution Professional with required support and cooperation instead of derailing the whole CIRP by not handing over the possession of the Corporate Debtor for more than 7 years. Further, we cannot help but observe that on the one hand the State Officials are seeking refuge behind the interest of employees of the Corporate Debtor and on the other hand they themselves have deliberately derailed the whole insolvency process which might have resulted in resolution of the Corporate Debtor and ultimately taken care of the interest of all the stakeholders including the workers. It is relevant to mention that the Employees of the Corporate Debtor have already filed their claims with the Resolution Professional.

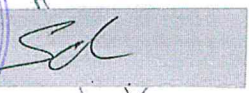
45. At this point, it is pertinent to take note of scheme of the Code. The Insolvency and Bankruptcy Code, 2016 envisages a time bound resolution of the Corporate Debtor for maximisation of value of assets and to preserve the interests of the stakeholders. Adherence to the timelines prescribed under the Code lies at its core and is a quintessential for meeting its objectives, and any delay in the same can frustrate the very purpose of the Code. In complete disregard of the timelines prescribed under the Code, the State Government and its officials have miserably failed in handing over the possession of the Corporate Debtor to the Resolution Professional for almost 7 years. The conduct of the State and its officials have brought the whole process which

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was supposed to be completed within 180 days to a stand still and have made a mockery of the whole system. It shocks our conscience that defaulter in the instant case is not a private party but rather the State of Rajasthan and its officials who have acted in complete disregard of the provisions of the Insolvency and Bankruptcy Code and have utterly failed in discharging their statutory duties. The State of Rajasthan and its designated officials who are entrusted with safeguarding the rule of law in the State have acted as if the provisions of the Code do not apply on them and they function beyond the confines of law.

46. It is relevant to refer to the observations made in the Order dated 13.04.2018 *vide* which the CIRP of the Corporate Debtor was initiated. For ease of reference, the relevant extract of the Order is reproduced hereunder: -

*“35.... It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the day to day affairs of the ‘Corporate Debtor’. In case there is any violation, the Interim Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing an appropriate order. The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the ‘Corporate Debtor’ as a part of its obligation imposed*

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*by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.”*

47. Thus, in complete disregard of the statutory obligations under the Insolvency and Bankruptcy Code, 2016 and clear directions in the Order dated 13.04.2018, the suspended management of the Corporate Debtor have miserably failed in discharging their duties and have failed to handover the possession of the assets of the Corporate Debtor to the Resolution Professional. Further, we are of the opinion that the defence put forth by the State Officials who were in management of the Corporate Debtor goes against the provisions of the Code and deserves to be rejected. The Code unequivocally bestows upon the Resolution Professional the custody and control of assets of the Corporate Debtor. Therefore, we are of the opinion that the State Officials and the suspended management have committed gross violation of the provisions of the Code by not handing over the possession of the Assets of the Corporate Debtor for almost 7 years to the Resolution Professional.
48. Besides the aforementioned issue, it is germane to take note of the conduct of the State Government and its officials in the instant case. Apropos the same, it is relevant to refer to the Reply filed by none-other than the State of Rajasthan through its Chief Secretary, Govt. of Rajasthan, and Additional Chief Secretary, Department of Industries, Govt. of Rajasthan in *IA (IBC)*

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No. 99/JPR/2019. The relevant extract of the Reply is reproduced hereunder:

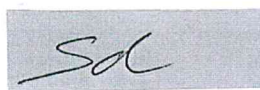
*“1.23 That the State being a welfare State is making every possible attempt to keep the interest of these workers protected and in furtherance to the same, a proposal for establishment of High-Level Committee (hereinafter referred to as the “HLC”) is being planned to put into force under the supervision of Chief Minister of Rajasthan/ Chief Secretary, State of Rajasthan.*

*1.24 That the aforesaid HCL would not only keep the interest of the Workers of JMEL but would also lay down proposal for paying off the financial creditors, including the ARC for which the correspondence with the Resolution Professional has already been placed on record as Annexure- R1.*

*1.25 That even otherwise, the aim of the Insolvency and Bankruptcy Code, 2016 is to “to promote entrepreneurship, availability of credit and balance the interest of all the stakeholders”. The HLC would also take into account the scheme for the repayment of dues of the Financial Creditors for which various plans and proposals are on the table for discussion, but the same could not be shared as of now being confidential. The HLC would plan to work out a better plan than the one provided under the Insolvency and Bankruptcy Code which would keep in mind the interest of the Workers not only for 24 months but their larger interest as a whole.”*

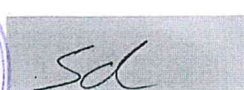
49. A careful examination of the foregoing paragraphs clearly reveals as to how oblivious and ignorant the Government and its officials are, not only of the provisions contained in the Insolvency and Bankruptcy Code, but also of the

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fundamental principles of the rule of law. In blatant violation of the well-established legal position that the Insolvency and Bankruptcy Code constitute a self-contained and exhaustive legislation providing a comprehensive framework for the resolution of a Corporate Debtor, the State and its officials have proceeded on the erroneous assumption that they can disregard the statutory process and that a plan formulated by their so-called High-Level Committee would be superior to the mechanism envisaged under the Code. Furthermore, notwithstanding the State's ignorance of law and its officials' self-congratulatory assertions concerning the Committee, it is evident that no meaningful or tangible steps have been taken towards the resolution of the Corporate Debtor since the commencement of the Corporate Insolvency Resolution Process on 13.04.2018.

50. It is a trite principle of law that where a statute prescribes a thing to be done in a particular manner, then it must be done in that manner and in no other manner. In *Cherukuri Mani w/o Narendra Chowdari v/s Chief Secretary, Government of Andhra Pradesh and others (2015) 13 SCC 722* it was observed that “*where the law prescribes a thing to be done in a particular manner following a particular procedure, it shall be done in the same manner following the provisions of law, without deviating from the prescribed procedure.*” Thus, the State Officials cannot deviate from the procedure prescribed under the law at their whims and fancies and refuse to

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handover the possession of the Corporate Debtor by citing formation of the High-Level Committee.

51. Besides the unfathomable ignorance of the law manifested by the State Officials and the suspended management, it transpires that in the Written Submissions filed on behalf of State of Rajasthan, deliberate attempt has been made to misguide this Adjudicating Authority by stating incorrect facts.

In the Written Submissions it is stated that: -

*“B. Relevant List of Dates*

...

30.05.2025,	<i>The Hon'ble NCLT categorically noted that the State is fully cooperating with all stakeholders in the ongoing CIRP proceedings.</i>
07.07.2025,	
30.07.2025	

...

*C. BRIEF FACTUAL BACKGROUND:*

...

*8. It is further submitted that the cooperation extended by the State has been undisputed and stands duly acknowledged in the judicial record. The Hon'ble NCLT, vide orders dated 30.05.2025, 07.07.2025, and 30.07.2025 has categorically noted that the State of Rajasthan is fully cooperating with the Resolution Professional as well as all other stakeholders in the ongoing CIRP proceedings. These orders conclusively demonstrate that the allegations of non-cooperation raised by the RP are unfounded and contrary to the consistent findings of this Hon'ble Tribunal.”*

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52. It is relevant to mention that in the Orders dated 30.05.2025, 07.07.2025, and 30.07.2025 it was nowhere observed by this Adjudicating Authority that the State has extended any cooperation to the Resolution Professional. Moreover, in the Order dated 30.07.2025 in the IA bearing no. 99/JPR/2019 for non-cooperation and handing over of the possession, the State Officials were warned that this Adjudicating Authority shall be constrained to pass a harsh order if the State fails to cooperate with the Resolution Professional. The relevant extract of the Order dated 30.07.2025 is reproduced hereunder:-

*“Officer-in-charge present in person prays for one last adjournment so as to hand over the possession of the CD and also to engage the counsel, in view of the fact that the counsel already representing has been elevated as the Judge of the Hon’ble High Court of Rajasthan. In view of the request made, one last opportunity is granted. It is further clarified that in case full cooperation is not extended on the part of the Respondents we shall be constrained to pass harsh orders against the Respondents...”*

53. At this juncture, it is pertinent to recall settled legal position that the State is expected to act as a model litigant and extend its support in upholding the rule of law. However, in the present matter, the conduct of the State officials has fallen short of the standards expected of them, as they have engaged in conduct unbecoming of their official positions and have, regrettably, incorporated inaccurate and misleading statements within their pleadings.

This Adjudicating Authority records its strong displeasure and serious

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concern regarding the reprehensible manner in which the State Officials have conducted themselves in the present proceedings.

54. In view of the facts and circumstances of the instant case, we are of the considered opinion that the conduct of the State Officials in the present matter has resulted in the derailment of the entire insolvency resolution process and has undermined the sanctity and credibility of the statutory framework envisaged under the Code. In conclusion, we are of the opinion that the State Officials who were charged with the management of the Corporate Debtor have acted in defiance of Section 19(1) of the Code and Regulation 3A of the IBBI (Resolution Process for Corporate Persons) Regulations, 2016 which mandates that the personnel of the Corporate Debtor are duty bound to handover the possession of the record along with the assets of the Corporate Debtor to the Resolution Professional. Furthermore, the conduct of the State Officials, coupled with an inordinate delay of nearly seven years in transferring possession of the assets of the Corporate Debtor to the Resolution Professional, has effectively obstructed the Resolution Professional from discharging his statutory duties under Sections 18 and 25 of the Code and has, in consequence, undermined and frustrated the entire insolvency resolution process.

55. In view of the observations made above, we pass the following directions: -

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55.1. In view of the fact that the CIRP of the Corporate Debtor was initiated *vide* Order dated 13.04.2018, we hereby direct the suspended management (MD, Chairman, or any other responsible person holding the charge and responsibility of the CD) to handover the possession of the Corporate Debtor and extend full cooperation and support to the Resolution Professional within a period of one week of passing of the Order. Further, the Chief Secretary, State of Rajasthan, is directed to ensure compliance of this Order and file an affidavit of compliance *qua* handing over of possession of the assets of the Corporate Debtor and cooperation extended by the suspended management to the Resolution Professional within a period of 10 days from the date of passing of the Order.

55.2. Furthermore, in view of the deliberate and wilful act of the State Officials in obstructing and derailing the insolvency resolution process, thereby acting in derogation of the express provisions and legislative intent of the Insolvency and Bankruptcy Code, this Adjudicating Authority deems it appropriate to place on record its grave concern and strong disapprobation of the conduct exhibited by the Government Officials acting as the suspended management of the Corporate Debtor, as well as by the Chief Secretary and the Additional Chief Secretary, Department of Industries, Govt. of Rajasthan, who

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have, with unwarranted audacity, sought to justify the constitution of a so-called High-Level Committee on the untenable assertion that such Committee could formulate a resolution plan superior to that contemplated under the Code.

55.3. In view of the unprecedented delay at the hands of the Govt. Officials in handing over of the possession of the Corporate Debtor from initiation of CIRP i.e., 13.04.2018, to till date against the mandate of IBC, we deem it appropriate to refer the matter to the Insolvency and Bankruptcy Board of India and the Central Government for taking appropriate actions against the Government Officials who were holding the post of Managing Director and Chairman of the Corporate Debtor at the relevant time in terms of Section 70 of the Code.

55.4. Further, in terms of Regulation 30 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 the Senior Superintendent of Police is directed to ensure that the local police authorities within whose jurisdiction the property of the Corporate Debtor are situated shall extend complete assistance to the Resolution Professional in securing the possession of the properties of the Corporate Debtor.

55.5. The Registry is directed to furnish a copy of this Order within a period of 3 days from the date of passing of the Order to the parties, the Chief

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Secretary (State of Rajasthan), to the Senior Superintendent of Police (Rajasthan), the Director General of Police (Rajasthan), Chairman, IBBI, and Secretary Ministry of Corporate Affairs, Government of India, 5th Floor, A-Wing, Shastri Bhawan, New Delhi-110001 and Joint Secretary, Ministry of Corporate Affairs, Government of India, for appropriate actions.

56. In view of the observations made above the I.A. bearing no. 99/JPR/2019 and I.A. bearing No. 107/JPR/2020 are allowed. Further, since the I.A. bearing no. 346/JPR/2025 was filed based on pendency of *Civil Appeals No. 3173/2023 and 3673/2023* which were dismissed by Hon'ble Apex Court vide Order dated 16.10.2025, the Interlocutory Application is dismissed as infructuous.



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Assistant Registrar  
National Company Law Tribunal  
Jaipur



**REETA KOHLI,  
JUDICIAL MEMBER**



**KAVITA BHATNAGAR,  
TECHNICAL MEMBER**

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