



S.No.1

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
31-03-2023 AT 10:30 AM

**IA (IBC) 1176 & 1552/2022 & IA (IBC) 26/2023 in 1176/2022 in
CP(IB) No.363/7/HDB/2020**
u/s. 7 of IBC, 2016

IN THE MATTER OF:

India Infrastructure Finance Company Ltd

...Financial Creditor

VS

Ind-Barath Power Infra Ltd

...Corporate Debtor

C O R A M:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

ORDER

IA (IBC) 1552/2022. Heard both sides.

This is an application filed by the Applicant /Interim Resolution Professional of M/s Ind-Barath Power Infra Ltd under section 19(2) of the Insolvency and Bankruptcy Code, 2016, seeking direction to provide all the required documents and information and cooperate with the Applicant in discharging his duties as an interim resolution professional under the provisions of the Code.

According to the IRP, Respondent No.1 (Suspended Director) has challenged the order passed by this Tribunal vide Company Appeal (AT) (Ins) No. 387 of 2022 before Hon'ble NCLAT vide Company Appeal (AT) (Ins) No. 387 of 2022 against the admission order passed by this Tribunal. However, when the representative of the Applicant met with Respondent No.3 on 02.11.2022, the Respondents agreed to provide the requisite information upon receipt of information request list from the Applicant. Accordingly on 03.11.2022, the Applicant shared a preliminary information request list and requested the Respondents to provide the documents mentioned at Annexures "C" and "D". The Applicant further stated that when the matter came up for hearing on 03.11.2022 before Hon'ble NCLAT, no stay was granted or any direction passed



expressly restraining the Applicant from taking any steps in the CIRP of the Corporate Debtor.

It is stated by the Applicant that despite repeated requests, the Respondents have not responded and refused to provide necessary documents and information. The concern of the Applicant that around 50 days have already elapsed since the commencement of CIRP but Applicant owing to non-cooperation on the part of Respondents, is unable to conduct the CIRP within the timelines. Thus submitting, prayed for directions to the Respondents to co-operate and provide the documents as sought for in the emails dated 26.10.2022 and 03.11.2022 (marked as Annexures “B” and “D”).

Per Contra, the Respondents 1 to 3 have filed counter contending that they are willing and ready to extend all possible cooperation subject to the directions of Hon’ble NCLAT, Chennai and further contends that the present application is not maintainable and only remedy available to the Applicant is to approach the Hon’ble NCLAT for suitable direction as Hon’ble NCLAT repeatedly directed not to precipitate the matter. It is also contended by the Respondents that the sole member of COC/IIFCL during the hearing before Hon’ble Appellate Tribunal repeatedly gave assurance that no action would be taken and would comply with the directions of Hon’ble NCLAT.

Rejoinder has been filed by the Applicant reiterating the averments made in the Application that no formal stay has been granted by the Hon’ble Appellate Tribunal and that Financial Creditor who is the sole member of COC has actively participated in the CIRP and in the 2nd CoC meeting held on 08.12.2022, several key decisions regarding the CIRP were taken and voted upon affirmatively by the COC. The Applicants stated that the submissions of the Respondents based on certain “oral directions” of Hon’ble NCLAT are entirely misconceived and the Respondents are attempting to take undue advantage of the situation and delay the CIRP. Further since the CIRP is a time bound process and already 116 days have already elapsed, the Applicant had no other option but to extend the timeline for submission of EOI till 15.02.2023. The applicant alleges that the actions of the Respondents exposes their malafides and their intension to halt the CIRP.

In the above backdrop, we heard the Ld. Counsel for the Applicant and Ld. Counsel for the Respondents.

The information that was sought for but not furnished by the Suspended Management, is not only in the domain of the Suspended Management but also essential for carrying out CIRP against the Corporate Debtor. Despite giving sufficient opportunity, the Suspended Management had not provided the information.

In this context we refer to Section 19(3) of IBC, which is as below:-



Section 19 (3): Personnel to extend cooperation to interim resolution professional.

(3) The Adjudicating Authority, on receiving an application under sub-section (2), shall by an order, direct such personnel or other person to comply with the instructions of the resolution professional and to cooperate with him in collection of information and management of the corporate debtor.

Thus, it is imperative on the part of the Suspended Management to extend the required co-operation to the Liquidator enabling timely completion of CIRP.

We, therefore, direct the suspended management to furnish the information shown in Annexures “B” and “D” and Annexure “K” in this Application filed by the IRP within 10 days from the date of this order. In default, necessary orders in terms of Section 70 of IBC will be passed against the Members of the Suspended Management. Accordingly IA 1552/2022 stands disposed of.

IA (IBC) 26/2023

This is an Application filed under section 60(5) of IBC, 2016 read with Rule 11 of NCLT Rules, 2016 seeking withdrawal of I.A.No.1176/2022.

The Learned Counsel for Applicant and Ld. Counsel Mr. Amir Bavani and Rishika Kumar for Respondent No.2 are present.

An Affidavit dated 26.02.2023 of the Applicant has been filed on 27.02.2023.

IA (IBC) 1176/2022

This is an application filed under section 60(5) of the Insolvency and Bankruptcy code, 2016 read with Rule 11 of NCLT Rules, 2016 on behalf of the Application/Respondent praying to re-hear the petition due to demitting the office by Hon’ble Technical Member, Hon’ble Mr. Justice Veera Brahma Rao Arekepudi on 19/10/2022 without passing order disposing off petition filed under section 7 of IBC, 2016.

The Learned Counsel for Applicant and Ld. Counsel Mr. Amir Bavani and Rishika Kumar for Respondent No.1 are present.

For hearing on the Affidavit dated 26.02.2023, list IA No. 26/2023 along with IA No. 1176/2022 on 25.05.2023.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)