

**THE NATIONAL COMPANY LAW TRIBUNAL  
CHANDIGARH BENCH, CHANDIGARH  
(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)**

**IA No.1511/2023, 1522/2023, 1245/2023,  
1236/2023**

**In  
CP (IB) No.340/Chd/PB/2018  
(admitted)**

**Under Section 60(5) of the Insolvency &  
Bankruptcy Code, 2016**

**In the matter of:**

Punjab Basmati Rice Limited

....Corporate Debtor

**In the matter of IA No. 1511/2023**

**Mr. Sanjay Kumar Aggarwal**

Liquidator of M/s Punjab Basmati Rice Ltd.(Under Liquidation)  
# C- 20, Block-C, Wave Estate, Sector 85  
SAS Nagar, Mohali -160 055, Punjab

....Applicant/Liquidator

Vs.

**Canara Bank**

Through its Chairman  
having Head Office No.112 JC Road  
Benglaru-560002

**Chief Manager, Canara Bank, Amritsar**

DS Market Branch,  
Golden Temple Road  
Amritsar-143001

...Respondents

**And In the matter of IA No. 1522/2023**

**Mr. Sanjay Kumar Aggarwal**

Liquidator of M/s Punjab Basmati Rice Ltd.(Under Liquidation)  
# C- 20, Block-C, Wave Estate, Sector 85

SAS Nagar, Mohali -160 055, Punjab

....Applicant/Liquidator

Vs.

**Canara Bank**

Through it's General Manager  
having its circle office at Canara Bank  
Sector 34-A, Chandigarh-160034

**Mr. Rajneesh Kumar,**  
**Divisional Manager, Recovery & Legal Section,**  
Canara Bank Circle Office,  
Sector 34-A, Chandigarh Pin-160034

**Mr. Deepak Mehra,**  
Branch Manager, Canara Bank,  
Dhariwal Branch, Near Gurudwara,  
Golden Hotel, G.T. Road, Dhariwal-143519,  
Distt. Gurdaspur (Punjab)

**Sh. Satish Kothiyal, Chief Manager/Branch Head Canara Bank**  
having its registered office at  
18-20, Dharam Singh Market, Golden Temple Rd,  
Chowk Phuwara, Town Hall,  
Katra Ahluwalia, Amritsar-143001 (Punjab)

...Respondent(s)

**And In the matter of IA No. 1245/2023**

**Stakeholders Consultation Committee of**  
Punjab Basmati Rice Ltd. (under Liquidation)  
Through its Authorized Representative

....Applicant/Liquidator

Vs.

**Mr. Sanjay Kumar Aggarwal**  
Liquidator of M/s Punjab Basmati Rice Ltd.  
# C- 20, Block-C, Wave Estate, Sector 85  
SAS Nagar, Mohali -160 055, Punjab

...Respondent

**And in the matter of IA No. 1236/2023**

**Mr. Sanjay Kumar Aggarwal**  
Liquidator of M/s Punjab Basmati Rice Ltd.  
# C- 20, Block-C, Wave Estate, Sector 85

IA No.1511/2023, 1522/2023,  
1245/2023, 1236/2023  
In  
CP (IB) No.340/Chd/PB/2018  
(admitted)

SAS Nagar, Mohali -160 055, Punjab

...Applicant/Liquidator

Order delivered on: 01.09.2023

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)  
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

**Present**

For the Applicant in

IA No. 1511/2023, 1522/2023,  
1236/2023 & respondent in

IA No. 1245/2023

: Mr. D.P. Garg, Advocate  
Mr. Varun Garg, Advocate

For applicant in 1245/2023

& respondent in IA No. 1511/2023,  
1522/2023

: Mr. Rakesh Gupta, Advocate  
Mr. Rakshit Gupta, Advocate

**Per: Subrata Kumar Dash, Member (Technical)**

**ORDER**

**IA No. 1511/2023**

The present application has been filed by the liquidator of the corporate debtor under Section 60 (5) of IBC, 2016, read with Rule 11 against Canara Bank being respondent(s) with the following prayer:

- i. It is humbly prayed that appropriate directions be issued to the Respondent(s) not to interfere in the operation and conduct of Liquidation Account No. 0166214000024 IFSC CODE: CNRB0000166 maintained by applicant Liquidator with Respondent no.2.

- ii. That appropriate directions be issued to the Respondents) to cancel the illegal and arbitrary instructions issued to SBI MCM DAV College Sector 36 Chandigarh for putting a hold on an amount of Rs. 57,12,900/- and Rs. 42,74,750 in the personal savings account of the Applicant/liquidator.
  - iii. That period of exclusion granted by this Hon'ble Tribunal as excluded from the total period of the Liquidation Process of the Corporate Debtor taken by the applicant for calculation of the Liquidation fee slab under Regulation 4 IBBI Liquidation Process Regulations read with IBC, 2016 may kindly be declared legal and valid.
  - iv. In view of the aforesaid facts and circumstances, the Applicant most humbly prays that the present application filed by the applicant may kindly be allowed with all damages, litigation expenses, special costs for mental agony and harassment caused to the applicant.”
2. The brief facts stated by the applicant are as below:
- i. It is submitted that the liquidation proceedings against the corporate debtor initiated vide order dated 18.12.2019 of this Hon'ble Adjudicating Authority. The applicant liquidator in terms of the directions of this Hon'ble Adjudicating Authority vide order dated 01.03.2023, put the assets of the corporate debtor for -auction on 01.04.2023. It is further submitted that the highest bid came for the tune of Rs. 26.77 Crores by way of Composite Sale, and the full amount has been realized on 13.04.2023 from the highest successful bidder.

ii. It is submitted that the applicant approached the respondent, Shri Satish Kothiyal, Chief Manager/Branch Head, Amritsar, on 19.04.2023 in person, with a request to release the proceeds in order of priority as per section 53 of IBC 2016. Subsequently, due to the disagreement on the interpretation of provisions of IBC with respondent-Bank regarding fees of the Liquidator, the respondents refused to honour the request of the applicant liquidator for disbursement of the realized amount to the stakeholders. Further, the above-said respondent Bank asked the applicant to issue a cheque for an amount of Rs 30 lacs only as part of the payment of the fees of the Liquidator.

iii. It is stated that vide Orders dated 01.11.2021, 30.03.2022 and 02.02.2023 passed by this Hon'ble Adjudicating Authority, the following period has been excluded and extended, respectively, in the liquidation process:

- a. Exclusion of period from 15.03.2020 to 02.11.2021 and extended the period upto 31.03.2022
- b. Exclusion of period from 09.11.2021 to 30.03.2022 and extended the period upto 31.03.2023
- c. Exclusion of period from 31.08.2021 to 02.02.2023.

iv. It is averred that the below-referred table establishes that the liquidator fee has been rightly arrived by the liquidator and falls within the bracket of 6 months is as under :-

Sr.No.	Calculation of the liquidation process period of the corporate debtor	No. days
1.	Liquidation order passed on 18.12.2019	

2.	Time period of days calculated from 18.12.2019 to 14.03.2020 for the purpose of process of liquidation process the CD.	86 days
3.	The exclusion of Liquidation Process period out of the total liquidation process period of the corporate debtor granted by this Hon'ble Adjudicating Authority from 15.03.2020 to 02.10.2021 Annexed R-1(Colly)	0
4.	The exclusion of Liquidation Process Period out of total liquidation process period of corporate debtor granted by this Hon'ble Adjudicating Authority from the period consumed in the adjudication of IA No. 471/2021 and IA 550/2021 in IA 471 of 2021 vide order dated 02.02.2023 Annexed R-1. (Colly).	0
5.	Time period of days calculated from 03.02.2023 to 01.04.2023 i.e., date of E-auction conducted successfully on 01.04.2023 in terms of E-auction Sale Notice 07.03.2023 issued by Liquidator as per directions of Hon'ble NCLT vide order dated 01.03.2023	58 days
6.	Time period of days calculated from 01.04.2023 to 13.04.2023 i.e., the date on which full amount of liquid assets realized from successful bidder in terms of E-auction conducted successfully on 01.04.2023.	13 days

7.	Total no. of days taken in account in liquidation process of the CD since liquidation order to till the date of full realization of the assets of CD	157 da
8.	Distributed made to the stakeholders/banks on 02.05.2023	

v. In this regard, reliance has been placed on the decision of Hon'ble NCLAT in the matter of **Small Industries Development Bank of India v. Shri Vejender Sharma**; Company Appeal (AT) (INS) No. 1027 of 2021, wherein exclusion of period from liquidation process for calculation of liquidator's fee slab under Regulation 4 of Liquidation Process Regulation has been considered. Further, the above argument has been substantiated by referring to the judgment passed by Hon'ble NCLAT in the matter of **Ashish Arjun Kumar Rathi**; Company Appeal (AT) (CH) (INS) No. 139 of 2021. The liquidator in support of its contention, has attached one legal opinion dated 27.04.2022 (Annexure A-8 of the application).

vi. It is submitted that the JLM(s) convened by the respondents nowhere bears the signatures of SCC Members except the signature of the respondent and has done RTGS with regard to liquidator fees only with the consent of respondents. Further, the respondents have levelled defamatory allegations against the applicant liquidator in the JLM dated 28.04.2023 and a letter dated 28.04.2023 written by Canara Bank through its Manager to SBI for putting a hold

on the liquidator's fee. Moreover, the respondents have caused hindrances in the liquidation process by prematurely approaching this Adjudicating Authority on 01.05.2022 by filing IA No. 1245/2023 by agitating the issue of distribution of the amount realised during the liquidation of the corporate debtor.

3. The written submissions have been filed by the respondent stating that the issue can be summed up in the manner that the stand taken by the SCC is that the orders passed under Regulation 47 (a) excluding the period are to be considered keeping in view the express wording of regulation 47 (a). Further, the categorical case of SCC is that the period of the liquidation process was not held up, and the properties were put to auction on more than 10 occasions. Therefore, the liquidation process has taken more than 12 months, and as such the liquidation fee and the distribution fee have to be assessed in terms of Regulation 4 (b) of the Liquidation Regulations. The dates are not disputed by the respondent herein. Further, the total period spent by the liquidator has to be read as under:

Sr.No.	Calculation of the liquidation process period of the corporate debtor	No. of days
1.	Liquidation order passed on 18.12.2019	
2.	Time period taken into account from 18.12.2019 to 14.03.2020 for the purpose of process of liquidation process period (Dec-12, Jan-31, Feb-29, March-14= 88 days)	86 days
3.	Time period excluded since 15.03.2020 to 02.10.2021 from the total liquidation process period as per order dated 01.11.2021 passed by Hon'ble NCLT (AA) . Copy of order 01.11.2021 attached Annexure A-1	0

4.	Time period for liquidation extended upto 31.03.2023. Period between 09.11.201 to 30.03.2022 excluded because of stay granted. Time spent for liquidation 03.10.2021 to 08.11.2021. (Copy of order attached Annexure A- ). Effect taken in order 02.02.2023.	37 days
5.	Time period excluded vide order dated 02.02.2023, 09.11.2021 to 02.02.2023 excluded from the total liquidation process period as per order dated 02.02.2023 passed by Hon'ble NCLT (AA)  Copy of order 02.02.2023 attached Annexure A- . The Order has to be read as a whole	0
6	Time period taken into account from 03.02.2023 to 01.04.2023 for the purpose of sale of assets and 13.04.2023 for the process of realisation of proceeds of the assets/properties of the CD.  (Feb-26, March-31, April=01 days= 58 days  Date of realization of full consideration to complete sale. 01.04.2023 to 13.04.2023= 13 days	71 days
	Distributed made on 02.05.2023  (14.04.2023 to 02.05.2023) with next 19 days	19 days
	Total days taken in liquidation process till sale of liquidation assets	213 days

4. It is submitted by the respondent that even if every order passed by this Hon'ble Adjudicating Authority is taken to be a favour for the liquidator, even then, the time spent in liquidation is 213 days, i.e., beyond a period of six months. Therefore, the liquidation fee/distribution fee payable to the liquidator may be assessed by taking the period of

liquidation to be beyond 12 months as per the case set up by the Stakeholders Consultation Committee, and in the best possible scenario, as per the case set up by the learned liquidator, the time taken in the liquidation process is more than 6 months and an appropriate direction in this regard is required to be passed accordingly.

5. We have heard the learned counsel for the parties and have carefully perused the records available.

6. The issue to be adjudicated in the present case is whether the period excluded by this Adjudicating Authority on different grounds from the total liquidation process period should also be excluded for the purpose of calculation of the Liquidator's fee in terms of the slab under Regulation 4 of (Liquidation Process) Regulations 2016 read with IBC.

7. For the sake of clarity, relevant provisions of the Code and underlying Regulations of IBBI (Liquidation Process) Regulations, 2016 is extracted below:

*15 (i) That Regulation 4 of the Liquidation Regulations deals with the aspect of Liquidator's Fees in detail:*

***“Liquidator’s fee-***

*(1) The fee payable to the liquidator shall be in accordance with the decision taken by the committee of creditors under regulation 39D of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.*

*(2) In cases other than those covered under sub-regulation*

*(1), the liquidator shall be entitled to a fee-*

*(a) at the same rate as the resolution professional was entitled to during the corporate insolvency resolution process, for the period of compromise or arrangement under section 230 of the Companies Act, 2013 (18 of 2013); and*

*(b) as a percentage of the amount realised net of other liquidation costs, and of the amount distributed, for the balance period of liquidation, as under:*

Amount of Realization/Distribution (In rupees)	Percentage of fee on the amount realized/distributed
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	In the first six months	in the next six months	Thereafter
Amount of Realisation (exclusive of liquidation costs)			
On the first 1 crore	5.00	3.75	1.88
On the next 9 crore	3.75	2.80	1.41
On the next 40 crore	2.50	1.88	0.94
On the next 50 crore	1.25	0.95	0.51
On further sums realized	0.25	0.19	0.10
Amount Distributed to Stakeholders			
On the first 1 crore	2.50	1.88	0.94
On the next 9 crore	1.88	1.40	0.71
On the next 40 crore	1.25	0.94	0.47
On the next 50 crore	0.63	0.48	0.25
On further sums realized	0.13	0.10	0.05

*Clarification: For the purposes of clause (b), it is hereby clarified that where a liquidator realises any amount, but does not distribute the same, he shall be entitled to a fee corresponding to the amount realised by him. Where a liquidator distributes any amount, which is not realised by him, he shall be entitled to a fee corresponding to the amount distributed by him.]*

*(3) Where the fee is payable under clause (b) of sub-regulation (2), the liquidator shall be entitled to receive half of the fee payable on realisation only after such realised amount is distributed*

*Clarification: Regulation 4 of these regulations, as it stood before the commencement of the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2019 shall continue to be applicable in relation to the liquidation processes already commenced before the coming into force of the said amendment Regulations.]*

*15 (ii) That the expression, Liquidation cost has been defined Regulation 2 (ea) of the Liquidation Process Regulations, 2016, which provides as follows:*

*"2 (ea) - "liquidation cost" under clause (16) of section 5 means-*  
*(i) fee payable to the liquidator under regulation 4;*

- (i) remuneration payable by the liquidator under sub-regulation (iii) of regulation 7;*
- (iv) costs incurred by the liquidator under sub-regulation (2) of regulation 24;*
- (v) costs incurred by the liquidator for preserving and protecting the assets, properties, effects and actionable claims, including secured assets, of the corporate debtor;*
- (vi) costs incurred by the liquidator in carrying on the business of the corporate debtor as a going concern;*
- (vii) interest on interim finance for a period of twelve months or for the period from the liquidation commencement date till repayment of interim finance, whichever is lower;*
- (viii) the amount repayable 5 [\*\*\*] under sub-regulation (3) of regulation 2A;*
- (ix) any other cost incurred by the liquidator which is essential for completing the liquidation process:*

*Provided that the cost, if any, incurred by the liquidator in relation to compromise or arrangement under section 230 of the Companies Act, 2013 (18 of 2013), if any, shall not form part of 42 liquidation cost.]*

8. A reference is made to the decision of Hon'ble NCLAT in the matter of **Small Industries Development Bank of India vs. Shri Vejender Sharma**; Company Appeal (AT) (INS) No. 1027 of 2021, wherein it held that:

*"Para 19 (page 15-17) On the basis of detailed discussion in the aforementioned paragraphs, it becomes abundantly clear that the Resolution Professional was following the procedure as set out in the Liquidation Process Regulations with regard to the disposal of secured assets, including the HSIIDC Bawal Property in which SIDBI has expressed its intent to realise its security interest. It also becomes clear that due to misinterpretation and lack of proper understanding of the procedure, SIDBI was unable to follow the requirements as was being communicated to him by the liquidator and, hence the liquidator had to approach the Adjudicating Authority thrice in the course of*

*liquidation to seek necessary directions qua the Appellant. We also find that such difficulties being faced by the liquidator were being brought to the knowledge of the Stakeholders Consultation Committee and necessary directions for further actions were being obtained by the liquidator.*

*22. We thus, find that the liquidator has carried out his responsibility with due diligence and without any prejudice to Appellant or any other stakeholder, and therefore, cannot be held responsible for delay that has taken place in pursuing the liquidation of the corporate debtor. Therefore, we come to the conclusion that the Adjudicating Authority has not committed any error in excluding period from 30.11.2018 to 24.2.2020 from the liquidation process for calculation of liquidator's fees slab under Regulation 4 of the Liquidation Process Regulations. Being devoid of merit, the appeal is dismissed.*  
*(Emphasis supplied)*

9. A reference is also made to the decision of Hon'ble NCLAT, Chennai in **Ashish Arjun Kumar Rathi**; Company Appeal (AT) (CH) (INS) No. 139 of 2021, wherein it held that:

*"(9) Regulation 4 of IBBI (Liquidation Process Regulations), 2016 deal with Liquidator's Fee. In Sub Clause (b) of Sub Section 2 of Section 4, the percentage of Fee on the amount realized and distributed is given. The 'Adjudicating Authority failed to take into consideration the contents and the relief as sought in IA No. 28 of 2021 and passed the Impugned Order without appreciating the fact and law. This Tribunal is of the view that having not considered the Appellant's Application, the Appellant prejudiced gravely, since he could not claim the fee as per along Regulations and in accordance with Law. In view of the reasons, this Tribunal comes to a conclusion that the 'Adjudicating Authority' erred in passing the Impugned Order and this Tribunal is of the view that the Appellant has made out a prima facie case to grant relief as prayed for.*

*(10) Further, this Tribunal is of the view that the Adjudicating Authority' failed to take into consideration the relief of exclusion prayed for in IANo.28 of 2021 is illegal.*

*Further, the maxim of actus curiae neminemgravabit, i.e., the act of the Court shall harm no person. The said maxim is recognized in the Indian jurisprudence and also followed in Essar Steel India Limited Vs. Satish Kumar Gupta in Civil Appeal No. 8766-67 of 2019. The Hon'ble Supreme Court held that "It is well settled that no man should suffer because of the fault of the court or delay in the procedure.*

*(11) In view of the reasons as stated above, the "Appeal is Allowed " and the Impugned Order is hereby set aside. The Appellant is entitled to be allowed exclusion of period of the Stay on the Liquidation Process of the Corporate Debtor operative since the Order dated 15.11.2019 passed by the NCLT, Hyderabad Bench in IA No. 1012 of 2019 in CP (IB) No. 150/9/HDB/2017 from calculation of the time taken for realization and distribution of the assets of the Corporate Debtor in terms of Regulation 44, Read with Regulation 4(3), of the IBB| (Liquidation Process Regulations), 2016. No Orders as to costs." (Emphasis supplied)*

10. We have carefully considered the reasons for which the extensions have been granted by this Adjudicating Authority. The first exclusion by the order dated 01.11.2021 was granted for the period from 15.03.2020 to 02.10.2021 due to the time lost in the lockdown period of Covid-19. The second exclusion was granted by our order dated 30.03.2022 on account of the delay caused by the stay/deferment for e-auction dated 10.11.2021, and the third exclusion was granted by our order dated 02.02.2023 on account of time consumed in the adjudication of IA No. 471/2021 & IA No. 550/2021 (applications filed by ex-director).

11. Subsequently, the liquidator has successfully conducted the e-auction for the sale of assets, and the entire amount of sale proceeds of the liquid assets/property of the corporate debtor has been realised in the liquidation account of the corporate debtor by 13.04.2023.

12. We note that no case has been made out by the respondent, i.e., regarding any shortcoming on the part of the liquidator which contributed to this delay in liquidation proceedings. We, thus, found that the liquidator has carried out his responsibility with due diligence and without any prejudice to the applicant or any other stakeholder. A reference is also made to the decision in the case of SIDBI (Supra) and Ashish Arjun Kumar Rathi (Supra), wherein on similar facts, the Hon'ble NCLAT, Delhi and Chennai, respectively, have allowed exclusion of period of the said liquidation process of the corporate debtor from the calculation of the time taken for realisation and distribution of the assets of the corporate debtor in terms of Regulation 44 read with Regulation 4(3) of the IBBI (Liquidation Process) Regulation 2016.

13. In view of the same, we direct that the period of exclusions allowed by this Adjudicating Authority in the orders dated 01.11.2021, 30.03.2022, and 02.02.2023 be also excluded for the computation of the liquidation period for the purpose of calculating the liquidator's fee slab under Regulation 4 of the Liquidation Process) Regulations 2016.

14. The applicant-liquidator and the respondents have given different computations for computing the time spent on the liquidation process for computing the liquidation process period. The same has been perused closely. The correct computation, in our view, is under:

IA No.1511/2023, 1522/2023,  
1245/2023, 1236/2023  
In  
CP (IB) No.340/Chd/PB/2018  
(admitted)

- Total No. days of exclusion as per the order of this Adjudicating Authority.

Date of order	Period
01.11.2021	15.03.2020 to 02.10.2021
30.03.2022	09.11.2021 to 31.03.2022
02.02.2023	31.08.2021 to 02.02.2023*

\* The application bearing IA No. 471/2021 was filed on 31.08.2021 and disposed of by the order of this Adjudicating Authority on 02.02.2023.

In our order dated 02.02.2023 it is directed as under:

*“due to the fact that e-auction has been deferred by order dated 09.11.2021 passed in IA No. 550/2021, it is directed to exclude the period consumed in the adjudication of IA No. 471/2021 and IA No. 550/2021 for the computation of period of liquidation process.”*

(Emphasis Supplied)

Thus, the period excluded as per the aforementioned three orders, i.e., dated 01.11.2021, 30.03.2022 and 02.02.2023, excludes the period from 15.03.2020 to 02.02.2023.

There is no ambiguity about the fact that the liquidation process ended with the distributions made to the stakeholders/banks on 02.05.2023.

The correct liquidation process period is re-computed as under:

Sr.No.	Calculation of the liquidation process period of the corporate debtor	No. of days
1.	Liquidation order passed on 18.12.2019	
2.	Time period of days calculated from 18.12.2019 to 14.03.2020 for the purpose of process of liquidation process of the CD.	86 days
3.	The exclusion of Liquidation Process period of the total liquidation process period of the corporate debtor granted by the orders of this Adjudication Authority dated 01.11.2021, 30.03.2022 and 02.02.2023, i.e., . for the period from 15.03.2020 to 02.02.2023.	0
4.	Time period of days calculated from 03.02.2023 to completion of Distribution among the stakeholders/banks on 02.05.2023	88 days
	Total days taken in liquidation process till distribution of assets among the stakeholders	174 days

15. The Stakeholder Consultation Committee/ respondents-Canara Bank are directed to complete the process of computation of the liquidator fee within 15 days of this order and make the payments thereof within the said period. However, no relief is granted with regard to the other prayers arising out of this main grievance of non-crystallisation of the liquidator's dues.

16. In the result, IA No. 1511/2023 is allowed and disposed of accordingly.

**IA No. 1522/2023**

17. The present application has been filed by the Liquidator of the Corporate Debtor u/s 60(5) of IBC read with Rule 11 of NCLT Rules, 2016, against the respondents-Canara Bank and Ors. seeking the following directions :

- i. To issue appropriate directions or orders to Respondent No. 1 to 4; to tender an unconditional written apology to the Applicant Liquidator and also to expunge the defamatory and derogatory remarks/words issued against the Applicant Liquidator used by them in the letter dated 28.04.2023 addressed to State Bank of India as well as in the Minutes of alleged JLM Meeting (s).
- ii. To issue directions or orders to respondents no. 1 to 4 to immediately ask State Bank of India MCM DAV College for Women, Sector 36, Chandigarh to remove the arbitrary and unlawful hold on the amount put in personal saving account No.20089964123 of Applicant Liquidator on 28.04.2023.
- iii. To issue directions or orders to respondents no. 1 to 4 to pay compensation or damages to the applicant/liquidator @ 24% p.a on the amount put on hold arbitrarily and unlawfully without any Legal Basis /Order of any Hon'ble Court/Govt. Agencies from 28.04.2023 to till date of removal of hold and order or directions to respondents 1 to 4 .
- iv. Respondents be directed to pay special costs to the Applicant Liquidator for causing loss to the reputation, harassment & mental agony etc. and furthermore, respondent no.1 be directed or ordered to take disciplinary action respondents nos. 2 to 4 for causing hindrances in the performance of

duties of the liquidator and tarnishing the image of the Applicant Liquidator with malafide intentions and ulterior motives.

- v. To issue directions or order to refer the matter to the Insolvency and Bankruptcy Board of India (IBBI) New Delhi to initiate legal proceedings under Section 236 IBC read with Section 235A of IBC,2016 against Respondent(s) for causing hindrances in performance of duties by Liquidator under the liquidation process of the Corporate Debtor by putting arbitrary and un-lawful hold on the amount in personal account of the Liquidator maintained with SBI, Sector 36, Chandigarh and using defamatory and derogatory words “dishonest, mischief and an act of fraud against the Applicant Liquidator of the Corporate Debtor Punjab Basmati Rice Limited – In Liquidation under IBC, a registered Insolvency Professional of IBBI without any legal basis/any Court Order.

18. The brief facts submitted by the Applicant Liquidator are stated herein below :

- i. It is submitted that the liquidation proceedings initiated against the corporate debtor vide order dated 18.12.2019 of this Adjudicating Authority and as per directions issued vide order dated 01.03.2023, the Applicant Liquidator put the assets of the corporate debtor on e-auction. Resultantly, the full amount was realized on 13.04.2023 from the highest successful bidder.
- ii. It is further submitted that the applicant approached Respondent No.4 Shri Satish Kothiyal, Chief Manager/Branch Head, Canara Bank D.S. Market Amritsar on 19.04.2023 in person and submitted all cheques and RTGS forms, with a request to release the proceeds in order of priority as per

section 53 of IBC 2016. Subsequently, due to the disagreement on the interpretation of provisions of IBC regarding fees of Liquidator in terms of exclusion orders 01.11.2021, 30.03.2022 and 02.02.2023 allowed by this Hon'ble Adjudicating Authority, the Branch Head refused to honor the request of applicant liquidator for disbursement of the realised amount to the stakeholders including Liquidator.

- iii. The applicant liquidator has stated that the applicant again worked out the whole distribution amount and submitted the cheque with relevant RTGS Forms on 28.04.2023 for doing distribution by way of RTGS with a request to release the proceeds in order of priority as per section 53 of IBC 2016 and has intimated the same to stakeholders as well as to IBBI, New Delhi vide letter dated 27.04.2023. That on the same day, after proper verification of all documents and RTGS forms as per bank norms, the Branch Head Canara Bank Sector 40, Chandigarh, itself done two (2) RTGS of Rs. 57,12,900/- and Rs.42,75,570/- dated 28.04.2023 to the personal account of Applicant-Liquidator maintained with State Bank of India Sector 36, Chandigarh but later on the concerned Branch Head, Canara Bank refused to do RTGS of other stakeholders, for the reasons best known to him nor he has issued any objection memo for the same to the Applicant-liquidator as requested to him.
- iv. It is submitted that in addition to the above, the alleged JLM(s) as convened by Canara Bank, nowhere bears the signature of SCC members except Canara Bank Officials.

- v. The Applicant Liquidator has stated that the respondents raised false, misleading and malicious allegations against the Applicant Liquidator in alleged JLMs by referring the above RTGS transfer done on 28.04.2023 by Canara Bank itself as *“with dishonest intention, the Liquidator got transferred huge amount of Rs. 99,87,470 /- to his account to which he is not even entitled”*.
- vi. It is stated that the Canara Bank, through its Manager Mr. Deepak Mehra (Respondent No. 3), wrote a letter dated 28.04.2023 to the Manager State Bank of India, MCM College Chandigarh to put a hold on the amount in the personal account of the Liquidator and further levelled defamatory words *“dishonest transfer of amount from the Liquidation account without having proper authority SCC/ Hon’ble NCLT”*. Moreover, the officials of Canara Bank wrongly & illegally called the fees of the Liquidator, which was transferred by the Canara Bank itself through RTGS dated 28.04.2023 as *“Mischievous”*. Further, the respondent called the whole process of liquidation as an **“Act of fraud”** by minutising these statements in the alleged JLM Dated 28.04.2023.
- vii. It is submitted that the respondents, through the aforesaid acts, have caused in the liquidation process of the corporate debtor.

19. The Respondents has filed its reply wherein it is submitted by the respondents that the respondents have not interfered with the working of the liquidator and the hold put up by the respondent was only qua the liquidation the fees which the liquidator wrong appropriated in his own personal account without getting the dispute qua the calculation

of liquidator's fees settled. The same issue of Liquidator's fees is already sub-judice before this Adjudicating Authority in IA 1245 of 2023 filed by SCC and IA No. 1511 of 2023 filed by the Applicant Liquidator.

20. The respondents have raised the same contentions as in IA No. 1511/2023, as referred to above. For the sake of brevity, the same are not repeated herein.

21. We have heard both the counsels for the Applicant-Liquidator and Respondents and carefully perused the records available.

22. The major issue in this application is due to the main grievance, i.e., lack of decision on the part of the SCC Members regarding the payment to the liquidator, as the issue has already been discussed above and disposed of in IA No. 1511/2023. As regards the prayer relating to the removal on the hold on the personal saving accounts of the applicant-liquidator with the State Bank of India, we are of the view that only the amounts payable to the liquidator after re-calculating the liquidator's fee as per our order should be transferred to the personal savings account of the liquidator. Additional amount, if any, already transferred to the personal savings account of the applicant-liquidator is directed to be refunded back to the account of the corporate debtor. This reconciliation should also be done along with the determination of the liquidator's fee within 15 days of this order. After the claims and counterclaims have been settled, the respondents are directed to remove the hold on the personal savings issue instructions to SBI MCM DAV College, Sector 36 Chandigarh for removing the hold on the personal savings account of the applicant-liquidator. We do not see any reason to accede to the other prayers, including the prayer for an unconditional written apology,

payment to the special cost to the liquidator and also issuance of directions to IBBI to initiate legal proceedings against the respondents.

23. In the result, IA No. 1522/2023 is partly allowed and disposed of accordingly.

**IA No. 1245/ 2023**

24. The present application has been filed by the Stakeholder Consultation Committee through its official Sh. Deepak Mehra against the liquidator under Section 60(5) of IBC read with Rule 11 of NCLT Rules seeking the following directions:

a. That an appropriate directions may be issued to the respondent to immediately disburse an amount of Rs. 25,10,20,117/- in proportion of calculation made by the respondent out of the sale proceeds which are lying with the respondent.

b. That appropriate directions be issued to the respondent to refund an amount of Rs.81,00,189/- which the respondent has illegally transferred in his account, claiming to be the Liquidator's Fee as per calculation given in para 28(iv) above.

25. The brief facts as stated by the applicant in the application and written submissions, are similar to averments made in the written submission referred in IA No. 1511 of 2023. For the sake of brevity, the same are not repeated herein.

26. The respondent Liquidator has filed its reply and written submissions wherein the following averments have been made:

- i. It is submitted as regards the prayer no.1 in the present application filed by the Applicant-Canara Bank has been rendered infructuous as the Respondent Liquidator has already distributed the amount to the stakeholders of Corporate Debtor in the SCC Meeting, convened and held on 02.05.2023.
- ii. It is further submitted that the present application has been filed by Applicant-Canara Bank purportedly on the authority given by the Stakeholders Consultation Committee of the Corporate Debtor, whereas no such authority or documentary evidence of SCC of Punjab Basmati Rice Limited – In Liquidation under IBC, authorising Sh. Deepak Mehra, Manager of the Canara Bank to file the present IA 1245 of 2023 is on record. Hence, the present IA No.1245 of 2023 filed by the Applicant is not maintainable.
- iii. It is stated by the Respondent-Liquidator that the applicant has not come to this Adjudicating Authority with clean hands and has deliberately concealed material facts and the important Orders dated 01.11.2021, 30.03.2022 and 02.02.2023 passed by this Adjudicating Authority regarding extension as well as the exclusion of period from the total liquidation process period of the corporate debtor.
- iv. The respondent Liquidator has made similar averments as in the above referred IA, i.e. IA No.1511 of 2023, wherein the total liquidation process period of the corporate debtor has been completed in 157 days. Further, the respondent-Liquidator has placed reliance on judgements of **Hon'ble NCLAT, New Delhi** in the matter ***Small Industries Development Bank of***

**India v. Shri Vejender Sharma** in Company Appeal (AT)(INS) No. 1027 of 2021 and the Judgment passed by the **Hon'ble NCLAT, Chennai** in the matter of the **Ashish Arjun Kumar Rathi** in Company Appeal (AT) (CH) (INS) No.139 of 2021. The respondent Liquidator has also substantiated his claim with regard to fees with the support of legal opinion attached as Annexure R-2 of the reply.

27. We have heard the learned counsel for parties and carefully perused the records available.

28. The main issue, i.e., the calculation of the liquidator's fee, has already been dealt with in IA No. 1511/2023, no fresh directions need to be issued in this regard. We have already directed the issue of the liquidator's fee to be decided within 15 days of this order. As regards the prayer relating to the disbursement of sale proceeds to the stakeholders, the liquidator is directed to make disbursement of the sale proceeds to the stakeholders one week in accordance with the law after the liquidator's fee is decided and paid.

29. In the result, IA No. 1245/2023 is partly allowed and disposed of accordingly.

**IA No. 1236/ 2023**

30. The present application has been filed by the Liquidator u/s 60(5) IBC read with Regulation 31 (IA) (10) of IBBI (Liquidation Process) Regulations, 2016 and Section 53(1)(a) IBC,2016 with the following prayer.

a. To allow and confirm that the period of exclusion, i.e. 15.03.2020 to 02.10.2021, allowed from the total period of Liquidation Process of the corporate debtor by this Hon'ble Bench vide order dated 01.11.2021 on application(s) IA 841/2020, 230/2021 and 528/2021 filed by Liquidator with the consent of stakeholders; and the period of exclusion i.e. from 31.08.2021 to 02.02.2023, allowed by this Hon'ble Bench from the total period of Liquidation Process of the corporate debtor vide order dated 02.02.2023 i.e from the time consumed in a period of pursuing Application filing by suspended director bearing No. IA 471/2021 (date of filing 31.08.2021 as per NCLT website) read with IA 550 of 2021 in IA 470 of 2021 (date of filing on 05.11.2021 as per NCLT website ) to date of order shall be excluded from the total period of liquidation process of the corporate debtor Punjab Basmati Rice Limited – In Liquidation under IBC and the said period of exclusion shall be excluded from the total period of liquidation for calculation of liquidator's fees slab under Regulation 4 of the Liquidation Process Regulations read with Liquidator order dated 18.12.2019.

31. The applicant-liquidator has made similar submissions with regard to the exclusion and extension of the liquidation process period of the corporate debtor as made in the above-referred IA, i.e. IA No.1511 of 2023. For the sake of brevity, the same are not repeated herein.

32. We have heard the Applicant-Liquidator and carefully perused the records available.

33. This application is basically a repeat of IA No. 1511/2023. No fresh directions in this application need to be issued.

34. In view of the orders passed above in IA No. 1511/2023, this application, i.e., IA No. 1236/2023 is rendered infructuous and disposed of accordingly.

Sd/-  
**(Subrata Kumar Dash)**  
**Member (Technical)**

September 01, 2023  
PB

Sd/-  
**(Harnam Singh Thakur)**  
**Member (Judicial)**