

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 1491 of 2023  
& I.A. No. 5321 of 2023**

**In the matter of:**

**Prabjit Singh Soni  
Chairman of Monitoring Committee**

**....Appellant**

**Vs.**

**Subhranil Mitra**

**...Respondent**

**For Appellant**

**Mr. Prabhjit Singh Soni, Advocate.**

**For Respondent**

**Mr. Krishnendu Dutta, Sr. Advocate with Ms.  
Renuka Iyer, Advocates.**

**ORDER**

**(HYBRID MODE)**

**20.11.2023:** Heard Learned Counsel for the Appellant.

2. This Appeal has been filed against the order dated 10.08.2023 passed by the Adjudicating Authority (National Company Law Tribunal), Kolkata Bench, Kolkata by which IA (I.B.C.)/1623(KB)2022 filed by the Appellant has been rejected. Appellant is the Chairman of the Monitoring Committee which sought direction for payment of his dues for an amount of Rs.13,72,467/-. The Adjudicating Authority rejected the application observing that earlier an IA was filed being IA No.613 of 2022 asking for same relief which has been rejected, the application is not maintainable.

3. Learned Counsel for the Appellant submits that in earlier IA, there were several prayers including direction for liquidation. He submits that in the

application which has been rejected, Appellant has also prayed for discharge as Chairman of the Monitoring Committee. It is submitted that the Resolution Plan having acted upon the amount of Rs.13,72,467/- has to be paid.

4. We have considered the submissions of the Learned Counsel for the Appellant and perused the record.

5. The order dated 11.11.2022 passed in IA No.613 of 2022 is as follows:-

*“1. Ld. Counsel for the parties present.*

*2. IA(I.B.C)/ 613(KB)2022:*

*a. This application has been filed for seeking following reliefs:*

*i. Allow the present application.*

*ii. The Resolution Plan of the SRA as approved by the Adjudicating Authority vide its order dated 6<sup>th</sup> August, 2018 be cancelled, discharged, rescinded and abrogated pursuant to section 33(3) and (4) of the IBC, 2016 and order for liquidation should be passed;*

*iii. To take the appropriate action against the SRA under 74(3) of the IBC, 2016.*

*iv. An order of liquidation be passed in respect of the Corporate Debtor in terms of sections 33(3) and 33(4) and section 34 of the Code.*

*v. The pending payment of CIRP cost and pending fees of monitoring committee of Rs.1372467/- be made part of Section 53(1)(a) of the IBC, 2016 in the waterfall of payments.”*

*b. It is the case of Ld. Counsel appearing for the Applicant, that he seeks the cancellation of the Resolution Plan for the reason that he has not been paid CIRP Cost. Resolution Plan was approved on 18.06.2022 and according to the Ld. Counsel appearing for the Bank of Baroda already states that the Resolution Plan has been acted upon whereas this*

*application has been filed after 4 years that is on 24.06.2022.*

*c. We find this Application is not maintainable and the reliefs sought cannot be granted and therefore, this application vide IA(I.B.C.)/613(KB)2022 is accordingly rejected.*

*3. Post the main CP on 30.12.2022.”*

6. The prayer (v) which was made in the said application was for the said amount of Rs.13,72,467/- which stood rejected by the Adjudicating Authority, the order was not challenged by the Appellant any further and that has become final. The application which has now been rejected i.e. IA No.1623 of 2022 was substantially for the same prayer seeking direction to make the payment of Rs.13,72,467/-. We do not find any error in the impugned order rejecting the said application.

7. As far as discharge of the Appellant is concerned, plan having already implemented with the payment made, the Appellant shall be treated to be discharged from his duties as Chairman of the Monitoring Committee. Appeal is dismissed.

**[Justice Ashok Bhushan]  
Chairperson**

**[Barun Mitra]  
Member (Technical)**

**[Arun Baroka]  
Member (Technical)**

**Anjali/nn**