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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 28th November, 2022
 + **W.P.(C) 10663/2018 & CM APPL. 41566/2018**
KAPIL GOEL Petitioner
 Through: None.
 versus

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA AND ANR. Respondents
 Through: Mr. Vikas Mehta & Mr. Apoorv Khator, Advocates for IBBI (M-9810536903)

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition seeks to cancel and set aside the order dated 6th September, 2018, passed against the Petitioner by the Disciplinary Committee of Respondent No.1/Insolvency and Bankruptcy Board of India (*hereinafter 'IBBI'*), in No.IBBI/DC/09/2018.
3. The facts of the matter are that the Petitioner - Mr. Kapil Goel who is a Resolution Professional (*hereinafter 'RP'*), had incorporated a partnership firm by the name 'IBBI Insolvency Practitioners LLP' on 8th November, 2017. The name 'IBBI' is the name of the Board constituted under Section 3 of the Insolvency and Bankruptcy Code, 2016 (*hereinafter 'IBC'*). Considering that the RP had used the name 'IBBI' in the firm's name, a show cause notice was issued to the RP on 23rd March, 2018, in terms of the IBBI (Insolvency Professionals) Regulations, 2016 (*'2016 Regulations'*). The said show cause notice was replied to by the Petitioner on 3rd April,

2018 and the issue was then referred to the Disciplinary Committee for hearing. The Disciplinary Committee, after considering the allegations in the notice as also the submissions made by the Petitioner, vide order dated 6th September, 2018, gave the following directions:

“6. ORDER

6.1 Mr. Goel has misled the stakeholders, the Board and the DC. His conduct is in violation of section 208 read with regulations 7(2)(a) and 7(2)(b) of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 and clauses 1, 2, 10, 12, 14 and 24 of the Code of Conduct in the First Schedule for Insolvency Professionals under the said Regulations.

6.2 In view of the above, the Disciplinary Committee, in exercise of the powers conferred under section 220(2) of the Code read with sub-regulations (7) and (8) of regulation 11 of the IBBI (Insolvency Professionals) Regulations, 2016, hereby, issues the following directions:

(a) Mr. Goel shall not take up any new assignment till “IBBI Insolvency Practitioners LLP” is removed from the Company/LLP Master Data of the Ministry of Corporate Affairs; and

(b) Mr. Goel’s registration as an insolvency professional shall be suspended for three months from the date of issue of this order. This direction of suspension shall come into force on expiry of 30 days from the date of its issue.

6.3 A copy of this order shall be forwarded to the Indian Institute of Insolvency Professionals of ICAI where Mr. Kapil Goel is enrolled as a professional members.

6.4 A copy of this order shall be forwarded to the Secretary, NCLT, New Delhi for information.”

4. As can be seen from the above directions, the IBBI held that the RP was in violation of Section 208 of the IBC read with Regulation 7(2)(a) and 7(2)(b) of the 2016 Regulations. It directed that the RP would not be entitled to take any new assignment till the entity bearing the IBBI name is removed from the Register of Companies by the Ministry of Corporate Affairs. It also directed suspension of the RP for a period of three months from the issue of the order.
5. The present writ petition challenges the said order passed by the Disciplinary Committee. Notice was issued in this writ petition on 8th October, 2018. Pleadings have since been completed.
6. However, it is noticed that none appears for the RP today. In fact, from a perusal of the previous orders, it seems that the appearance of the RP in this matter has been erratic.
7. Mr. Vikas Mehta, Id. Counsel for the IBBI, submits that the name 'IBBI Insolvency Practitioners LLP' which was incorporated by the RP has already been struck off from the Register of Companies by the Registrar of Companies/Ministry of Corporate Affairs (*hereinafter 'MCA'*) on 26th April, 2019. The period of suspension of three months has also already lapsed. Moreover, this Court is of the opinion that the RP could not have used the name IBBI for his own private entity which would amount to misleading the trade and industry, as also the stakeholders who are involved in resolution and insolvency processes. The Disciplinary Committee's view does not deserve to be interfered with. The order has also already been given effect to by the MCA and the RP's suspension period of three months as directed by the impugned order has already come to an end.
8. Under these circumstances, the impugned order is not interfered with.

9. The writ petition is dismissed. All pending applications are disposed of.

PRATHIBA M. SINGH
JUDGE

NOVEMBER 28, 2022

Rahul/MS

