

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 7789 of 2024**

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AJIT GYANCHAND JAIN

Versus

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (IBBI)

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Appearance:

MR PERCY KAVINA SR.ADV. WITH MR.VISHAL J DAVE(6515) for the
Petitioner(s) No. 1

MS. HIRAL U MEHTA(7003) for the Petitioner(s) No. 1

NIPUN SINGHVI(9653) for the Petitioner(s) No. 1

MR NAVIN PAHWA SR.ADV. WITH MR RAVI PAHWA FOR THAKKAR AND
PAHWA ADVOCATES(1357) for the Respondent(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI**Date : 06/05/2024****ORAL ORDER**

1. Heard Mr.Percy Kavina, learned Senior Counsel appearing with Mr.Vishal Dave, learned advocate for the petitioner and Mr.Navin Pahwa, learned Senior Counsel appearing with Mr.Ravi Pahwa, learned advocate for the respondent.

2. Mr.Kavina, learned Senior Counsel submits that the petitioner herein is constrained to approach this Court in view of the order passed by one member of the respondent - Board and that, the same is contrary to the provision of Section 220 of the Insolvency and Bankruptcy Code, 2016 (for short, the 'Code of 2016'). Submissions are also made on the merits of the matter.

3. Per contra, Mr.Navin Pahwa, learned Senior Counsel appearing with Mr.Ravi Pahwa, learned advocate for the respondent placed reliance on the definition of 'Disciplinary Committee' under the provision of IBBI (Inspection and Investigation) Regulations, 2017

and report of the working group - 1 and submitted that 'Disciplinary Committee' means a committee of whole time member/s constituted by the Board under Section 220(1) of the Code, provided that the whole time member/s in the Disciplinary Committee shall not be associated with the investigation or inspection.

4. Having considered the submissions made by the learned counsel appearing for the respective parties, the identical issue under the provision of Section 220(1) of the Code of 2016 wherein, it is stipulated that the Disciplinary Committee shall consist of "whole time members", whether it can be construed that the disciplinary committee should be constituted comprising of at least two whole time members whereas, in the present case, the coram comprises of a single member, is pending adjudication before this Court in the writ petitions being Special Civil Application Nos.13767 of 2022, 24566 of 2022 and 6988 of 2023. The issue involved in the present petition is also identical in nature.

5. Issue notice, making it returnable on 22.07.2024.

6. In the meantime, order dated 30.04.2024 bearing No.IBBI/DC/212/2024 is directed not to be acted upon till the next returnable date. Direct service is permitted.

Hitesh

(VAIBHAVI D. NANAVATI,J)