

**Reg. No.CC/170/2020**  
**IBBI Vs. Gagan Shukla & Ors.**

16.03.2021

Present: Sh.Abhinav Singh, Id. Counsel for complainant/IBBI.

Written submissions on the point of taking cognizance and summoning of accused persons have been filed in the form of soft copy on behalf of complainant. Same be taken on record.

Arguments on the point of cognizance and summoning of accused persons already heard.

Record perused.

The present complaint case has been filed by Insolvency & Bankruptcy Board of India (hereinafter referred as “IBBI”) on the averments that it is a statutory body established under the Ministry of Home Affairs, Government of India, created under Insolvency & Bankruptcy Code, 2016. It is alleged that accused persons are Ex-Directors and Key Managerial Personnel of M/s Star Mineral Resources Private Ltd. (hereinafter referred as “Corporate Debtor”), as per relevant master data available with ROC. It is claimed that despite direction of National Company Law Tribunal (hereinafter referred as “NCLT”), all these accused persons failed to provide requisite assistance and cooperation to the Resolution Professional, to manage the affairs of the Corporate Debtor in Corporate Insolvency Resolution Process (CIRP) u/s 9 of the Code r/w Rule 6 of the Insolvency & Bankruptcy Board of India (Application to Adjudicating Authorities) Rules, 2016 filed by Operational Creditor.

It is alleged that upon an application made by Operational Creditor, Sh Akarsh Kashyap was appointed as Interim Resolution

Professional (IRP) vide order dated 17.12.2018 marked as (Annexure 2) and subsequently Sh. Naresh Kumar Bansal was confirmed as the Resolution Professional by NCLT vide order dated 04.06.2019 (Annexure-6). It is alleged that subsequent to his appointment, Resolution Professional approached the Ex Directors of the corporate debtor, and asked them to handover the control of the corporate debtor for the purpose of CIRP and relevant documents.

It is further alleged that accused persons have not disclosed to the Resolution Professional all the details regarding the Corporate Debtor including details of transactions, book of accounts, assets etc which is vital for ensuring and ascertaining the value of the assets and behaved in a lackadaisical manner during the CIRP and not cooperated with the Resolution Professional.

Based on aforesaid averments/allegations, it is claimed that all these accused persons have violated the provisions contained in Section 70(1)(a)/ 70(1)(c) and Section 19 (1) r/w/s 235A of the Code and are liable to be punished accordingly.

In support of the complaint, the complainant has filed the relevant documents including the details of the Board of Directors of Corporate Debtor and other necessary record.

The present complaint has been instituted through Chief General Manager namely Sh.Umesh Kumar Sharma, in whose favour Authorization letter has been executed on behalf of IBBI, which empowers him to act and perform various functions including institution of present complaint case on their behalf.

As per provision contained in Section 236(2) of the

Insolvency & Bankruptcy Code, 2016, the complainant i.e. IBBI has powers to set the criminal law into motion through its authorized officer. In view of Section 236(1) thereof, the offences punishable under the said Code, are triable by the Special Court so constituted under Chapter XXVIII of the Companies Act, 2013. The complainant has placed on record notification number S.O.2554(E) dated 27.07.2016, whereby this Court has been conferred with the jurisdiction to try the offences in the capacity of Special Court so constituted in terms of Section 435(1)(a) of the Companies Act, 2013.

After considering the documentary evidence placed on record, this Court is satisfied that prima facie the aforesaid offences under the Insolvency & Bankruptcy Code, 2016 have been committed by the accused persons. Thus, *cognizance of said offences is taken*.

Since the present complaint has been made by a public servant in his official capacity, the pre-summoning evidence is required to be dispensed with in view of proviso of Section 200 CrPC. Accordingly, all the five accused persons namely Gagan Shukla (A-1), Kalyani Shukla (A-2), Sachin Sehgal (A-3), Bimla Kumar Jajani (A-4) and Ravindra Banthia (A-5) be summoned for facing prosecution for violation of the provisions contained in Section 70(1)(a)/ 70(1)(c) and Section 19 (1) r/w/s 235A of the Code. They be summoned on filing of PF/RC/courier within 7 days, for the next date. Put up for further proceedings on **15.05.2021**.

(MOHINDER VIRAT)  
ASJ-03 & Special Judge (Companies Act)  
Dwarka Courts (SW)/Delhi/16.03.2021