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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8612/2024 & C.M.APPL. 35288/2024 (stay), 35289/2024
(exemption)

ANIL GOEL

..... Petitioner

Through: Mr. Neeraj Malhotra, Mr. Anirudh
Wadhwa, Mr. Raghav Wadhwa, Mr.
Shashwat Awasthi and Mr. Kartik
Gupta, Advocates

versus

INSOLVENCY AND BANKRUPTCY

BOARD OF INDIA & ANR.

..... Respondents

Through: Mr. R. Venkatraman, ASG and
Ms. Amrita Singh, Advocate for R-1
Mr. Roshan Jaitley, CGSC with
Mr. Hussain Taqvi, G.P, Mr. Dev
Pratap Shahi and Mr. Harsh Pratap
Shahi Advocates for R-2

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

12.06.2024

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1. The present petition under Article 226 of the Constitution of India seeks
the following prayers:-

“(a) Quash and set-aside the Impugned Order dated 16.05.2024 issued
by the Disciplinary Committee of Respondent No. 1 in
IBBI/DC/216/2024 whereby the Respondent No. 1 has suspended the
registration of the Petitioner, who is a well-reputed Insolvency
Professional, for a period of one year effective from 15.06.2024;

(b) Restrain the Respondent No. 1 from taking any coercive action
against the Petitioner in furtherance of the Impugned Order dated
16.05.2024; W.P.(C)-8612/2024 54

(c) Alternatively, and without prejudice to the above, declare that the
suspension of 1 year ordered against the Petitioner by way of the
Impugned Order dated 16.05.2024 already stands satisfied on account



of the suspension of the AFA of the Petitioner since 03.05.2023 because of which the Petitioner has not been able to take on any new assignment/work w.e.f. 03.05.2023 till date;

(d) Grant ex-parte, ad interim reliefs in terms of the prayers made above;

(e) Pass any such other order(s) as this Hon'ble Court deems fit and proper in the facts and circumstances of the present case.”

2. Learned senior counsel appearing on behalf of the petitioner submits that the impugned order dated 16.05.2024 passed by the Disciplinary Committee under the Insolvency and Bankruptcy Board of India suffers from the following irregularities:

(a) It is submitted that the Disciplinary Committee comprised of a single member which is in contravention of Section 220(1) of the IBC, reads as under:

“220. Appointment of disciplinary committee

(1) The Board shall constitute a disciplinary committee to consider the reports of the investigating Authority submitted under sub-section (6) of section 218:

Provided that the members of the disciplinary committee shall consist of whole-time members of the Board only.”

(b) Secondly, it is submitted that the statutory period for completion of the proceedings in pursuance of the show cause notice is stated to be 34 days in terms of Rule 13 of Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017, reads as under:

“13. Disposal of Show cause notice.

(1) The Disciplinary Committee, after providing an opportunity of being heard to the notice, shall dispose of the show-cause notice by a reasoned order.

(2) [The Disciplinary Committee shall endeavour to dispose of the show-cause notice within a period of thirty-five days of the date of issuance of the show-cause notice.

.....”



3. Learned ASG appearing on behalf of respondent submits that the present petition has been filed in pursuance of the order dated 16.05.2024 and it is submitted that the same is delayed by four weeks. It is submitted that the rule regarding the composition of the Disciplinary Committee is not mandatory. It is further submitted that so far as the statutory period of 34 days is concerned the delay cannot be attributed to the respondent alone as the proceedings were also delayed on account of conduct of the present petitioner.
4. It has been pointed out that aforesaid legal ground raised herein has been adjudicated upon and the judgment with regard to the same has been reserved by the Roster Bench.
5. Issue notice.
6. Learned counsel appearing on behalf of respondents accepts notice and seeks time to file a response. Let a counter affidavit be filed within a period of two weeks.
7. Rejoinder thereto, if any, be filed within a period of one week thereafter.
8. List on 03.07.2024 before Roster Bench.

AMIT SHARMA, J
(VACATION JUDGE)

JUNE 12, 2024/pu

Click here to check corrigendum, if any