



**W.P.No.12409 of 2024**  
**& WMP.No.13540 of 2024**

**Dr.ANITA SUMANTH,J.**

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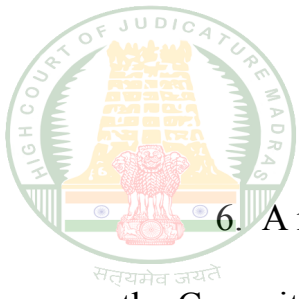
Notice through Court as well as privately to R1, returnable 09.07.2024. Private notice to the panel counsel, if any, for R1 is also permitted. Proof of service be placed on file. No notice is issued to R2 to R7 at this juncture.

3. The challenge is to an order dated 09.04.2024 under which the registration of the petitioner as an Insolvency Professional has been suspended. The order has been passed in terms of Section 219 of the Insolvency and Bankruptcy Code, 2016 (in short 'Code') read with Regulations 11 and 12 of the IBBI (Inspection and Investigation) Regulations, 2017 (in short 'Regulations').

4. The order has been passed by a whole-time member of the Insolvency and Bankruptcy Board of India (IBBI) and the preliminary ground for challenge is that it is sans jurisdiction, insofar as the relevant provision of the Code requires '*a Committee*' to have passed the order.

5. Proviso to Section 220(1) states that *members of the disciplinary committee shall consist of whole-time members of the Board only*. Section 189 (1) of the Code deals with the Constitution of the Board. The Board shall consist of (a) a Chairperson, (b) three members from amongst the officers of the Central Government not below the rank of Joint Secretary or equivalent, (c) one member to be nominated by the Reserve Bank of India and (d) five other members to be nominated by the Central Government, of whom at least three shall be whole-time

members



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6. A reading of Section 220 with Section 189(1)(d) indicates, prima facie, that the Committee envisaged under Section 220 must comprise of a full quorum of three whole-time members or at least two of the whole-time members, seeing as the language employed in the proviso to Section 220 is in the plural.

7. A similar view as above has been taken by the Gujarat High Court in *Sunil Kumar Agarwal V. Insolvency and Bankruptcy Board of India* (Order dated 20.07.2022 in C/SCA/13767/2022) and *Ajit Gyanchand Jain V. Insolvency and Bankruptcy Board of India* (Order dated 06.05.2024 in C/SCA/7789/2024).

8. That apart, the Regulation under which the petitioner is stated to have committed an infraction, i.e., Regulation 34(2) of IBBI (Liquidation Process) Regulations, 2016, stands deleted with effect from 16.09.2022 and the impugned order has been passed on 09.04.2024.

9. For the above reasons, there shall be an interim stay of the impugned order, effective till the next date of hearing.

10. The Court records the undertaking of the petitioner that he will not undertake any fresh/new assignment in the meantime, as an Insolvency Professional.

11. List on 09.07.2024. Written instructions/counter by then with an advance copy served upon the petitioner.

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06.06.2024

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