

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency)No.1059 of 2019

IN THE MATTER OF:

Intec Capital Ltd.

.....Appellant

Vs.

**Rajesh Lohia
IRP & Ors.**

.....Respondents

Present :

For Appellant: Mr. Ketan Madan, Mr. Himanshu, Advocates

O R D E R

16.10.2019 - The Appellant ('Financial Creditor') has challenged the order dated 6th September, 2019 passed by the Adjudicating Authority ('National Company Law Tribunal') Ahmedabad Bench, Ahmedabad which reads as follows:-

"The Instant application is filed by the IRP on 16.08.2019 with a prayer seeking direction upon the Committee of Creditors for reimbursement of his expenses and dues. That apart, since he was not paid regularly he want to get discharge from his duties at IRP.

The Ld. Lawyer appearing on behalf of the Respondent i.e. COC consisting of Corporation Bank and INTEC Capital Ltd. is present and senior manager of the corporation bank is also present in person.

They have filed their reply on the application so filed by the IPR with some allegations. But so far COC has not preferred any application for replacement of IRP.

Though, section 22 of the ID Code refers that if at all Committee of Creditors wants to change the Interim Resolution Professional the application ought to come through Committee of Creditors with the resolution of the meeting.

On Perusal of the record, it is found that even after laps of three months from the date of admission of the application under filed section 9 of the IB Code the Committee of Creditors has not taken any step either to pass any resolution to appoint RP and/or has made any endeavour to file any application, if at all require seeking any relief against the IRP.

Thereby, they have already wasted three months time of the CIRP in total ignorance of the intent of the

legislation and the objectives of the IB Code, which are to be completed in time bound manner. Such act from the Committee of Creditors is not expected and the issue with regard to the payment of the IRP is not the bar in passing any resolution and/or to file any application before this Adjudicating Authority for replacement and/or appointment of RP.

The learned PCA appearing on behalf of the IRP submitted that till date the Committee of Creditors has not approved the 'Form G' even after completion of 75 days. Consequent upon which, the present IRP is not in a position to publish the same in the newspaper, which is required to be completed within one month.

Meanwhile, the Committee of Creditors is directed to clear the dues of the Interim Resolution Professional till the appointment of new RP without any further delay.

Accordingly, the instant IA stands disposed of with the above observation.”

From the aforesaid order, we find that 'Committee of Creditors' have been directed to clear the dues of the 'Interim Resolution Professional' which the 'Committee of Creditors' are required to determine in accordance with law. Therefore, we are not inclined to interfere with the impugned order at this stage.

The appeal is dismissed.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice A. I. S. Cheema]
Member (Judicial)

[Kanthi Narahari]
Member (Technical)

ss/sk