

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT-III

ITEM No. 109

**IA/4184/2020, IA/4190/2020, IA/4202/2020,
IA/4230/2020, IA/372/2021, IA/446/2021, IA/471/2021,
IA-1493/2021, IA-2504/2021, IA-4956/2021, IA-2952/2023,**

**In
(IB)-2130(ND)2019**

IN THE MATTER OF:

M/s. Dynacon Projects Pvt. Ltd. Petitioner/Applicant
Vs.
M/s. Today Homes & Infrastructure Pvt. Ltd. Respondent

Order under Section 9 of the IBC, 2016.

Order delivered on 10.08.2023

CORAM:

**SHRI BACHU VENKAT BALARAM DAS
HON'BLE MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Applicant : For Applicant - Mr. Ritin Rai Sr. Adv., Mr. Atul Sharma, Adv., Mr. Aditya Vashisth, Adv., Ms. Ritika Sinha Adv., Mr. Bilal Ali, Mr. Anurag Bhatt, Mr. Adarsh Gupta Advs.
Mr. Ankita Saikia, Mr. Ashim Vachher, Mr. Vaibhav Dabas Advs.
For the GNIDA : Mr. U.N. Singh Ad.
For the RP : Mr. Kanishk Khetan, Mr. Nilesh Sharma, Mr. Shivam Jaiswal, Ms. Anushka Sharma, Ms. Swashika Kumari Advs.
For the Bank : Mr. Rajat Chaudhary Adv.

ORDER

IA/4184/2020,

This application has been filed seeking the following reliefs:

- a)** *Direct the IRP/RP to release the salary of the applicant upto date;*
- b)** *Direct the IRP/RP to add the name of the applicant in the CoC and conduct the CoC in proper manner;*

- c) Direct the IRP/RP to provide the applicant voting right through electronic modes;*
- d) Any other relief which this Hon'ble Tribunal may deem fit be also granted in favour of the applicant in the interest of justice.*

No one has appeared on behalf of the Applicant. Ld. Counsel for the Resolution Professional submitted that the claim of the applicant has already been admitted by the Resolution Professional. He further submitted that as per the provisions of IBC, 2016 before the Applicant is not entitled to a part of the CoC and have any voting rights being an Operational Creditor.

IA dismissed.

IA/4190/2020

This application has been filed seeking the following reliefs:

- a) Direct the IRP/RP to release the salary of the applicant upto date;*
- b) Direct the IRP/RP to add the name of the applicant in the CoC and conduct the CoC in proper manner;*
- c) Direct the IRP/RP to provide the applicant voting right through electronic modes;*
- d) Any other relief which this Hon'ble Tribunal may deem fit be also granted in favour of the applicant in the interest of justice.*

No one has appeared on behalf of the Applicant. Ld. Counsel for the Resolution Professional submitted that the claim of the applicant has already been admitted by the Resolution Professional. He further submitted that as per the provisions of IBC, 2016 before the Applicant is not entitled to a part of the CoC and have any voting rights being an Operational Creditor.

IA dismissed.

IA/4202/2020

This application has been filed seeking the following reliefs:

- a) Direct the IRP/RP to release the salary of the applicant upto date;*
- b) Direct the IRP/RP to add the name of the applicant in the CoC and conduct the CoC in proper manner;*
- c) Direct the IRP/RP to provide the applicant voting right through electronic modes;*
- d) Any other relief which this Hon'ble Tribunal may deem fit be also granted in favour of the applicant in the interest of justice.*

No one has appeared on behalf of the Applicant. Ld. Counsel for the Resolution Professional submitted that the claim of the applicant has already been admitted by the Resolution Professional. He further submitted that as per the provisions of IBC, 2016 before the Applicant is not entitled to a part of the CoC and have any voting rights being an Operational Creditor.

IA dismissed.

IA/4230/2020

This application has been filed seeking the following reliefs:

- a) Direct the IRP/RP to release the salary of the applicant upto date;*
- b) Direct the IRP/RP to add the name of the applicant in the CoC and conduct the CoC in proper manner;*
- c) Direct the IRP/RP to provide the applicant voting right through electronic modes;*

- d) Any other relief which this Hon'ble Tribunal may deem fit be also granted in favour of the applicant in the interest of justice.*

No one has appeared on behalf of the Applicant. Ld. Counsel for the Resolution Professional submitted that the claim of the applicant has already been admitted by the Resolution Professional. He further submitted that as per the provisions of IBC, 2016 before the Applicant is not entitled to a part of the CoC and have any voting rights being an Operational Creditor.

IA dismissed.

IA/372/2021

This application has been filed seeking the following reliefs:

- a) Call for the record of the case.*
- b) Pass appropriate orders against the impugned orders/decision/action of the Resolution Professional for converting and considering the applicant/GNIDA as Operational Creditor and not informing for participating in a meeting committee of creditors and necessary orders/directions be issued for upholding and continuing the Applicant/GNIDA as "Financial Creditor" and for participation in a meeting of creditors.*
- c) Quash and set aside the all actions/decisions/plan taken by the Resolution Professional and Committee of Creditors against the applicant/GNIDA and allow the Applicant to participate in all the proceedings as Financial Creditor.*
- d) In exercise of the powers under Section 98, 204 and 208 and all other applicable provisions of the IBC, 2016, direct replacement of the present Resolution Professional Mr. Nilesh Sharma and direct further action against the said Resolution Professional for his misconduct in not informing*

and allowing to participate in CoC and allegedly for not considering the status of the Applicant GNIDA as a financial creditor, without adjudication, reasons and justification, resulting in financial loss to a Govt. Authority GNIDA and dealing with the owner of the land to its detriment and resulting in unlawful financial gain to the Corporate Debtor and other creditor at the expenses of the Applicant.

- e) Any other relief or order(s) which this Hon'ble Tribunal may deems fit and proper be also passed in favour of the Applicant/GNIDA.*

The Applicant/GNIDA in this application is seeking a direction to be given to the Resolution Professional to treat it as “Financial Creditor”. Ld. Counsel for the Resolution Professional has submitted that the issue as to whether GNIDA is to be treated as a “Financial Creditor” or an “Operational Creditor” has been decided by the Hon'ble Supreme Court in its Judgement in “**Civil Appeal No. 2222 of 2021**” titled as “**New Okhla Industrial Develepment Authority Vs. Anand Sonbhadra**” which has been held that GNIDA will be treated as an “Operational Creditor”.

In view of the law laid down by the Hon'ble Supreme Court we do not find any merit in this application.

At the stage, Mr. U.N. Singh Ld. Counsel appearing for the GNIDA sought to withdraw the present application liberty to file a fresh application. Liberty granted.

IA dismissed as withdrawn.

IA/446/2021

One week time granted as a last and final opportunity for filing the rejoinder. List the matter **on 25.08.2023.**

Matter will be heard in physical mode.

IA/471/2021

We have heard the submissions made by the Learned Counsel appearing for the Operational Creditor as well as the Corporate Debtor.

Arguments concluded. Parties are at liberty to file the written submission.

Order **reserved**.

IA-1493/2021, IA-2504/2021, IA-4956/2021 & IA-2952/2023

List the matter **on 25.08.2023**.

Matter will be heard in physical mode.

-Sd-

**(ATUL CHATURVEDI)
MEMBER (TECHNICAL)**

ANAND DUBEY

-Sd-

**(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)**