

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH - II
CHENNAI

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ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON 04/09/2019

PRESENT: SHRI B.S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)
SHRI S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

APPLICATION NUMBER : MA/929/2019
PETITION NUMBER : CP/634/IB/2017
NAME OF THE PETITIONER(S) : HINDUSTAN EDUCATIONAL AND CHARITABLE TRUST
NAME OF THE RESPONDENT(S) : G V RAVI KUMAR
SECTION : 60 OF IBC

Sl.No. NAME (IN CAPITAL) REPRESENTED BY SIGNATURE

- | Sl.No. | NAME (IN CAPITAL) | REPRESENTED BY | SIGNATURE |
|--------|--|----------------------------|------------------|
| 1. | R.VIDHYA SHANKAR | ADV For Applicant | R.Vidhya Shankar |
| 2. | Chinna Aswathy Abraham
Aashish Jain kunia.
(For M/s. Surana & Suram) | Counsel for
Respondent. | Chinthaiah |

ORDER

It is an MA filed by the successful Resolution Applicant (Hindustan Educational and Charitable Trust) against R1/Resolution Professional (Mr. G.V. Ravi Kumar), R2(Bank of Baroda), R3(State Bank of India), R4(Corporation Bank) R5(Regional Provident Fund Commissioner II (Recovery Officer) seeking directions as follows:

- a) *Declare that the recovery proceedings initiated by the PF Commissioner against the Resolution Applicant vide order dated 26.7.2019 read with notice dated 30.7.2019 and proceeding dated 22.08.2019 demanding payment of PF Dues of M/s. Vangalamman Health Services Limited the Applicant are illegal and void abinitio.*
 - b) *Grant an order of injunction/stay restraining the PF Commissioner from taking any coercive steps against the Applicant for recovery of PF dues of M/s. Vangalamman Health Services Limited.*
- Pass appropriate consequential orders for adjustment of priorities as between the Creditors of M/s. Vangalamman Health Services Limited and for payment of PF dues by such creditors, if deemed appropriate by the AA.*

The Successful Resolution Applicant has filed material papers revealing the Resolution Plan amount of ₹3,77,34,583.70 lying in the escrow account operated by the RP.

[MA/929/2019 IN CP/634/IB/2017]

It is needless to say that EPF dues will not amount to be part of the liquidation estate, therefore, whatever dues payable to the EPF Authorities shall be paid first, thereafter to compute the value of the liquidation estate. It appears that has not been done in this case, before approval of this Resolution Plan, however since the Corporate Debtor Funds are lying in the Escrow Account maintained by the RP, the RP is hereby directed to forthwith release the EPF dues to the EPF Authorities, as stated by the EPF Authorities.

If the RP is of the view that he shall be heard, the RP, after compliance of the order aforesaid, shall explain to this Bench as to why EPF dues should not be released to the EPF Authorities.

List this matter on **06.09.2019**.


[S. VIJAYARAGHAVAN]
Member (Technical)


[B.S.V. PRAKASH KUMAR]
Member (Judicial)

vs