

**NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI**

MA/356/IB/2018

In

CP/634/IB/CB/2017

Under Section 60(5) of the IBC, 2016

In the matter of

Shri.A.Manickam

...Applicant

Vs.

Mr.G.V.Ravikumar, RP and Another

... Respondents

Order delivered on: 12.09.2018

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**K. ANANTHA PADMANABHA SWAMY, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

For the proposed Applicant :Shri.S.V.Pravin Rathinam, Advocate

:Shri. Cibi Vishnu, Advocate

For the Applicant :Shri.Sathish Parasaran, Senior Advocate

Shri.Mohammed Umar, Advocate

Shri.B.Dhanaraj, Advocate

For the Financial Creditor : Shri.Aashish Jain Lunia, Advocate

ORDER

Per: S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

- 1) The Applicant herein is representing the minority (8.38%) share holders of the corporate debtor and the present application is filed in the said capacity.
- 2) The reliefs sought by the Applicant in this application are as follows;
 - a) *To direct the Resolution Professional to place a public notice inviting Expression of Interest.*

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- b) *To direct to stall all the process till new resolution plans are invited and approved by the COC.*
- c) *Pass such further or other order as it deems fit in the above circumstances of the case and thus render justice.*
- 3) The Tribunal vide its order dated 22.11.2017 in CP/634/(IB)/CB/2018 has admitted the Insolvency Petition against the Respondent Company and appointed Mr. G.V Ravikumar as the Interim Resolution Professional.
- 4) Form -G Invitation of Resolution Plan was published by the Resolution Professional on 22.03.2018 according to which:
- a. Serial no.10 states that the date of issue of invitation was 23.03.2018;
 - b. Serial no.12 states that the date of issue of evaluation matrix was 30.03.2018 and;
 - c. Serial no.14 states that the last date for the submission of the resolution plan by the prospective Resolution Applicant was 22.04.2018.
- 5) However, the evaluation matrix was not provided on the date mentioned in Form-G but was provided by the Resolution Professional on 07.04.2018, which was 7

days after the date mentioned in Form-G.

- 6) The Information Memorandum provided on 07.04.2018 was incomplete and did not contain the requisite details and after requisition from one of the applicant the last date was extended by 7 calendar days i.e. till 29.04.2018.
- 7) A Form-G Inviting for Resolution Plans was published by the Resolution Professional on 09.05.2018 according to which:
 - a. Serial no.10 states the date of issue of invitation was 10.05.2018;
 - b. Serial no. 12 states the date of issue of evaluation matrix was 11.05.2018 and;
 - c. Serial no. 14 states the last date for the submission of the evaluation plan by the prospective Resolution Applicant was 17.05.2018.
- 8) Vide e-mail dated 14.05.2018 a revised Information Memorandum and Evaluation Matrix was brought forth by the Resolution Professional. Vide an e-mail dated 31.05.2018 the Resolution Professional insisted that the last date for the submission be 02.06.2018.

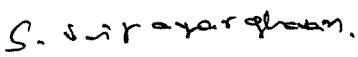
9) In this case the learned counsel for the minority share holders has stated that they are willing to obtain a Resolution Plan from a prospective applicant who is prepared to submit a Resolution Plan for a much higher value which will benefit all the shareholders including the minority share holders. In this connection it is stated that there were several opportunity for a resolution plan to be submitted for consideration of the COC during the extended period of CIRP and also at the time of inviting of Resolution Plans. The proposed applicant had not availed any of these opportunities and after the conclusion of the CIRP proceedings has sought to restart the whole process of inviting EOI, resolution plans etc which will needlessly prolong the CIRP beyond the time limit envisaged in IBC, 2016. This may defeat the very purpose of the code and since it has been stated that certain amounts have already been received and distributed to the creditors as mentioned by the RP during hearing.

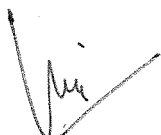
10) The Tribunal observes that the Resolution Plan submitted by M/s.Hindustan Educational and Charitable Trust was recommended by the COC vide meeting dated 02.08.2018 and the same was approved by this Tribunal vide order dated 30.08.2018 in MA/322/IB/2018 in CP/634/IB/CB/2017.

11) Further the order for extension of moratorium period of 180 days which expired on 09.05.2018 for further 90 days from 10.05.2018 has already expired. Thus, directing the Resolution Professional to place a fresh public notice inviting Expression of Interest at this stage is unwarranted and will unnecessarily delay the repayment of dues to the creditors including the operational creditors. The Tribunal finds no reason to interfere in the commercial wisdom of the COC and is unable to accede to the request of the applicant to re-open the entire bidding process at this stage. Also in terms of Regulation 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

“..a resolution applicant shall submit resolution plan(s) prepared in accordance with the Code and these regulations to the resolution professional within the time given in the invitation made under clause (h) of sub-section (2) of section 25.”

12) In view of this Tribunal finds no ground to interfere in the Resolution Plan which has already been sanctioned. The Application **MA/356/IB/2018 In CP/634/IB/CB/2017** stands **dismissed.**


(S.VIJAYARAGHAVAN)
MEMBER (TECHNICAL)


(K.ANANTHA PADMANABHA SWAMY)
MEMBER (JUDICIAL)

/sd/