

**IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH**

(IB)-119(PB)/2018

IN THE MATTER OF:

Oriental Bank of Commerce	APPLICANT / PETITIONER
Vs.		
M/s. Best Textiles Ltd. & Ors.	RESPONDENT

SECTION:

Under Section 7 of Insolvency & Bankruptcy Code, 2016

Order delivered on 02.02.2018

Coram:

**CHIEF JUSTICE (RTD.) M. M. KUMAR
HON'BLE PRESIDENT**

**Sh. S. K. MOHAPATRA
HON'BLE MEMBER (TECHNICAL)**

PRESENTS:

For the Petitioner:-

Mr. Kailash Sharma, Advocate

ORDER

IRP named in the petition namely, Mr. Hemant Paliwal has given a certificate at the end of the written communication in Form-2 (p.506) stating that the facts averred in the application are true, accurate and complete and default has occurred. Such a certificate by any IRP would show a partisan approach, which is not acceptable as we have already opined in (IB)-25(PB)/2018 in the matter of ICICI Bank Limited v. Essar Power Jharkhand Ltd. decided on 16.01.2018. It is appropriate to highlight the operative part of the aforesaid order as under:



“The aforesaid description of form would bring in the element of patent bias impinging upon the independent character of an IRP who has to be above board and has to act as an independent umpire. Moreover, there is no whisper in the Code or in the rules requiring an IRP to furnish such a certificate which is optional. Such a form is negation of principle of fair play. We cannot require IRP to follow such a performa. We further direct that since it is optional to fill up such a performa an IRP shall not fill up such a performa as it is wholly alien to principles to act fairly. Therefore, the Rule making Authority is directed to have relook on this part of the performa and may consider appropriate to delete it”.

Accordingly, we direct the applicant to name another IRP who may not highlight any partisan approach. Needful shall be done within one week.

List the matter on 13th February, 2018.

Sd/-

(M. M. KUMAR)
PRESIDENT

Sd/-

(S. K. MOHAPATRA)
MEMBER (TECHNICAL)