

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH AT HYDERABAD**

CA No.06 of 2018
CP No. IB/41/7/HDB/2017
Under Section 22 (2), (3) (b) of IBC, 2016

In the matter of

K.K. Koteswar Rao
Interim Resolution Professional of
Deccan Chronicle Holdings Limited, 36,
Sarojani Devi Road,
Secunderabad-500 003

...Applicant / IRP

Versus

CANARA BANK, Prime Corporate Branch, TSR
Complex, 2nd Floor, 1-7-1, S.P. Road,
Secunderabad-500 003

.... Respondent/Financial Creditor

Order Pronounced on 25th January, 2018

CORAM:

Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)

Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

Counsels / Parties Present

For the IRP:

Shri K.K. Rao, IRP

Counsel for Financial Creditor:

Shri T. Nagender, Advocate

Counsel for Corporate Debtor:

Shri A.S. Prashanth,
Advocate

Per: Ravikumar Duraisamy, Member (Technical)

ORDER

1. The Present Company Application bearing CA No. 06 of 2018 in CP (IB) No.41/7/HDB/2017 is filed by Mr. K.K.Rao, Interim Resolution Professional of Deccan Chronicle Holdings Ltd (Corporate Debtor/ DCHL) under Section 22 (2), (3) (b) of

Insolvency and Bankruptcy Code, 2016, by inter alia, seeking the Tribunal to replace the Interim Resolution Professional by another Resolution Professional etc.

2. The brief facts and contentions as stated in the Application are as follows:-

- (a) The Company petition bearing CP No. (IB) 41/7/HDB/2017, was admitted on 05.07.2017 and subsequently, Shri K.K. Rao was appointed as Interim Resolution Professional vide order dated 19.07.2017.
- (b) The IRP has called for CoC meeting on 04.01.2018 by sending notice to all members of CoC on 02.01.2018 inviting them to attend the meeting at DCHL, Secunderabad at 11 am which was chaired by the Applicant and attended by the members of CoC in person, on video and audio.

Members present physically

1. Mr. K. Raghuram – Chief Manager, rep of ICICI Bank
2. Mr. P. Koteswar Rao, Chief Manager, rep of Canara Bank
3. Mr Dalchand, DGM, representative of IDBI Bank
4. Mr. Ch. Hanumantha Rao, AGM, rep of Andhra Bank
5. Mr. N. Murali Krishna, EVP, rep of Kotak Mahindra Bank
6. Mr. B.P. Das, AGM, representative of Corporation Bank.
7. Ms. Neela Pratap, Chief Manager, Rep of Tata Capital Financial Services Ltd.
8. Mr. Ajay Tembhekar, Representative of IOB
9. Mr. T. Sreenivasa Rao, AGM, rep of Central Bank of India
10. Mr. Nadeem Ladji, Rep of HDFC Bank
11. Mr. M.S.N.V Krishna, Representative of HDFC
12. Mr. Srikanth, Rep of PIL Industries
13. Mr. Ashwin Kumar Chadha, Rep of UV Asset Reconstruction Co. Ltd.
14. Ms. Huma Niyazi, rep of IFCI Ltd
15. Mr. Mohd Shafiulla Khan, Rep of SBI
16. Mr. Abhijit Banushali, rep of ICICI Securities Ltd.
17. Mr. NageshBabu, Pegasus Asset Reconstruction Pvt. Ltd.



Members present through video conferencing

01. Mr Hrishikesh Panse, representative of IDFC Bank
02. & 3. Mr Devesh Goyal, Rep of SBI Pension Funds Pvt. Ltd (for both Central Govt. scheme & state Govt Scheme)
04. Mr. Prahalad Khale, Rep of L&T Finance Ltd.
05. Mr. Sanjiv Lochan, Rep of Photon Infotech Ltd

Members present through Audio Conferencing

01. Mr. Rajul Bhargav, Manager, Rep of Axis Bank.

c) The following were the recommendations:-

Sl. No	Name of Financial creditor	Recommended name of the RP
1.	UV Asset Reconstruction Co. Ltd	Mr. Sanjay Kumar Gupta
2.	ICICI Bank Limited	Will go with majority
3.	Canara Bank	Mr. TSN Raja or Dr. Lakshmi Narsimha
4.	Axis Bank Ltd	Will go with majority
5.	IDBI Bank	Will go with majority
6.	Andhra Bank	Mr. TSN Raja or Dr. Lakshmi Narsimha
7.	PIL Industries Limited	Will go with majority
8.	Pegasus Asset Reconstruction Private Ltd	Will go with majority
9.	Kotak Mahindra Bank	Mr. TSN Raja or Dr. Lakshmi Narsimha
10	IDFC Bank Limited	Will go with majority
11	Corporation Bank	Will go with majority
12	Tata Capital Financial Services Ltd	Mr. TSN Raja
13	Indian Overseas Bank	Mr. TSN Raja
14	Central Bank of India	Mr TSN Raja or Dr. Lakshmi Narsimha
15	HDFC Bank	Mr TSN Raja
16	State Bank of India – SAMB-II Hyd	Will go with majority
17	Housing Development Finance Corporation Limited	Will go with majority
18	L&T Finance Ltd	Will go with majority
19	ICICI Securities Ltd	Will go with majority
20	IFCI Limited	Will go with majority



21	SBI Pension Funds Private Limited (National Pension Scheme Trust (NPS Trust) A/c SBI Pension Fund Scheme central Government)	Will go with majority
22	SBI Pension Funds Private Limited (National Pension Scheme Trust (NPS Trust) A/c SBI Pension Fund Scheme State Government)	Will go with majority
23	Photon Infotech Private Ltd	Will go with majority



- (d) Accordingly, the following resolutions were proposed for consideration of CoC;

Resolution 1:

To resolve to make an application to Hon'ble NCLT for extension of the Corporate Insolvency Resolution Process beyond the period of 180 days for a further period of 90 days i.e. total of 270 days from the insolvency commencement date 19.07.2017, as per Sec 12 (2) and 12 (3) of the Insolvency and Bankruptcy Code, 2016 and also exclude the period lapsed due to various litigations in calculating 180 days and further authorize the interim resolution professional Mr. K.K. Rao to make the application to this Tribunal.

Resolution 2:

- (a) To resolve to appoint Mr. TSN Raja (IBBI/IPA-003/IP-N00065/2017-18/10551) as Resolution Professional in the place of the interim resolution professional, subject to approval of Hon'ble NCLT.

(Or)

- (b) To resolve to appoint Dr. Lakshmi Narsimha (IBBI/IPA-001/IP-P00107/2017-2018/10214) as Resolution Professional in the place of the Interim

Resolution Professional, subject to approval of Hon'ble NCLT.

(Or)

(c) To resolve to appoint Mr. Sanjai Kumar Gupta (IBBI/IPA-001/IP-P00592/2017-2018/11045) as Resolution Professional in the place of the interim resolution professional, subject to approval of Hon'ble NCLT.

(d) The members after discussion agreed to schedule the electronic voting as follows:

Starting time: 12.00 noon on Monday, 8th January, 2018

Ending time: 12.00 noon on Tuesday, 9th January, 2018

e) As per procedure, the minutes of the CoC were circulated to all the members on 05.01.2018 and e-voting arranged as per schedule.

The results of the e-voting are as under:-

Out of 27 members in CoC, 26 members (with a percentage of 97.72) have participated in e-voting except one member India Bulls Housing Finance Ltd (with a percentage of 2.28). As per scrutinizers report, the proposed RPs have secured the following percentage of votes:

Name of the proposed RP	Number of members voted			% age of total voting share in favour
	In favour of	Against	Abstained	
Sri TSN Raja	16	09	01	63.14
Dr Lakshmi Narasimha	17	08	01	65.22



Sri Sanjai Kumar Gupta	07	16	03	18.20
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3. Heard Shri K.K. Rao, IRP, Shri T. Nagender for Financial Creditor, Shri A.S. Prashanth for the Corporate Debtor. We have perused the pleadings of both the Parties and extant provisions of the IBC.
4. The Procedure for the Appointment of the Resolution Professional is dealt with under Section 22 of IBC, 2016. Section 22 reads as under:

Appointment of Resolution Professional

- (1) The first meeting of the committee of creditors shall be held within seven days of the constitution of the committee of creditors.
- (2) The committee of creditors may, in the first meeting, by a majority vote of not less than seventy-five per cent. Of the voting share of the financial creditors, either resolve to appoint the interim resolution professional or to replace the interim resolution professional by another resolution professional.
- (3) Where the committee of creditors resolves under sub-sections (2)
 - (a) To continue the interim resolution professional as resolution professional, it shall communicate its decision to the interim resolution professional, the corporate debtor and the Adjudicating Authority; or
 - (b) To replace the interim resolution professional, it shall file an application before the Adjudicating Authority for the appointment of the proposed resolution professional.
- (4) The Adjudicating Authority shall forward the name of the Resolution Professional proposed under clause (b)



of sub-section (3) to the Board for its confirmation and shall make such appointment after confirmation by the Board.

- (5) Where the Board does not confirm the name of the proposed resolution professional within ten days of the receipt of the name of the proposed Resolution Professional, the Adjudicating Authority shall, by order, direct the Interim Resolution Professional to continue to function as the resolution professional until such time as the Board confirm the appointment of the proposed resolution professional.

5. Shri K.K. Rao was recommended as Interim Resolution Professional by the Financial Creditors namely Canara Bank. The Adjudicating Authority noted that, out of 23 Financial Creditors, 15 Financial Creditors did not recommend any name of IRP but stated that (willing to go with the majority). However, upon perusal of the documents submitted, it is noted that Dr. Lakshmi Narasimha vide his undated / unsigned letter tentatively quoted a fee of Rs. 20 lakhs per month and as per the voting by the CoC, he was voted No.1 with 65.22% of total voting share.
6. As per the Provision (2) of 22 extracted above, the COC either to appoint IRP as a Resolution Professional or to replace an IRP by another Resolution Professional. In the First meeting by a Majority of Vote not less than 75% of the voting share of the financial Creditors. As stated supra, there is no unanimity in recommending one Resolution Professional by the COC. More over none of the Resolution Professionals fulfills the Minimum percentage of voting share of the financial Creditors. Therefore, it necessities the Tribunal to



consider an appropriate / suitable and experienced person to conduct CIRP in respect of DCHL which is one of the leading English Newspapers in the States of AP and Telangana. There are so many poor and casual employees making out their livelihood by working in the Corporate Debtor News Agency. Therefore it is necessary for the Tribunal to see that the operations of the Corporate Debtor/ DCHL should be continued smoothly as a going concern while CIRP in question is under process.

7. So far as Mr. T.S.N. Raja is concerned, he is currently serving as Liquidator in two proceedings (M/s VNR. Infrastructures Ltd. CP (IB) No. 12/10/HDB/2017 and M/s Blossoms Oils & Fats Ltd. CP (IB) NO. 23/10/HDB/2017), which are still pending before the Tribunal. This Bench itself has appointed him in one of said Liquidation proceedings. However, his performance is found wanting. So far as second name (Dr. K. Laxmi Narasimha) is concerned, he does not have any experience at all in conducting Insolvency Proceedings, like IRP / RP / Liquidator though he is an experienced Advocate. So far as third RP (Mr. Sanjai Kumar Gupta) is concerned, he secured only 18.20% of voting share which is way below the prescribed minimum percentage of 75%. Therefore, the Adjudicating Authority felt not to make any opinion. In view of several socio-economic issues involved in the issue, we are not inclined to accept any of the Resolution professionals forwarded by the Committee of Creditors. Moreover, as stated supra, the unanimous decision of CoC are to replace the existing IRP and to seek extension of time beyond 180 days for a further period of 90 days which was permitted by the Tribunal vide a separate order.
8. Considering the importance of the Sector in which the Corporate Debtor functions, the employment provided to thousands of people, directly or indirectly contributing to development of the State and also performing an important



role of information dissemination to millions of people, the Bench decided to appoint another Resolution Professional.

9. This Bench has the occasion to oversee the performance of one of the Insolvency Professionals, namely Ms. Mamta Binani who conducted first ever CIRP in the case of Synergies Dooray Automative Limited. And this Bench has also commended her performance in accepting first ever Insolvency Resolution plan in the Country. Therefore, the Adjudicating Authority is of unanimous opinion that Ms. Mamta Binani is a fit Insolvency professional to appoint her as Resolution Professional for DCHL /Corporate Debtor.

10. In view of the above facts and circumstances of case, by exercising powers conferred on this Adjudicating Authority, Section 22 of IBC, 2016, the Company Application bearing CA No. 06 of 2018 in CP No. IB/41/7/HDB/2017, is allowed with following directions.

- 1) Hereby appointed Ms. Mamta Binani Regd No: IBBI/IPA-002/IP-N00086/2017-18/10227 as the Resolution Professional of Deccan Chronicle Holdings Ltd /Corporate Debtor subject to confirmation of her name by the IBBI. Accordingly, the Registry of NCLT is directed to forward a copy of this order for confirmation of Resolution Profession U/s 22 (4) of IBC, 2016.
- 2) Shri K.K. Rao, the existing IRP has also accepted to assist Ms. Mamta Binani till completion of CIRP proceedings because he continued as IRP for almost 06 months and therefore, to have a continuity in the functioning of the Corporate Debtor/ DCHL, we direct Ms. Mamta Binani to avail the assistance of Shri K.K. Rao, and also to engage a competent local counsel to



assist the RP in the resolution process. Shri K.K. Rao would continue as Interim Resolution Professional till the confirmation from IBBI is received regarding Ms. Mamta Binani as Resolution Professional.

- 3) The Registrar In charge is directed to intimate the said RP asking her to furnish her declaration and disclosure as per prescribed format.
- 4) The Resolution Professional is directed to expedite the matter, as lot of time has elapsed since the time of its initiation.



Sd/-
RAVIKUMAR DURAISAMY
 Member (Technical)

Sd/-
RAJESWARA RAO VITTANALA
 Member (Judicial)

G. Anantha Nellothuri
 for Dy. Repr./Asst. Repr./Court Officer/
 National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY
 केस संख्या
 CASE NUMBER *CA No: 06 of 2018 (P/1B) No: 41/7/10018*
 निर्णय का तारीख
 DATE OF JUDGEMENT *25-1-2018*
 प्रति तैयार किया गया तारीख
 COPY MADE READY ON *29-1-2018*