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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment pronounced on: 05.02.2018

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W.P. (C) 9520/2017, CM APPL.38726-38727/2017

DR. VIDYA SAGAR GARG

..... Petitioner

Through: Ms. Pallavi Singh, Advocate.

versus

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

..... Respondent

Through: Mr. Vikramjeet Banerjee, Sr.
Advocate with Ms. Swarupama Chaturvedi
and Mr. B.N. Dubey, Advocates.

CORAM:-

HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J. (ORAL)

1. This is a writ petition which is directed against the order dated 12.10.2017, passed by the Insolvency and Bankruptcy Board of India (in short "the Board") via which, petitioner's application under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016 (in short "2016 Regulation") seeking registration as an Insolvency Profession (I.P.) has been rejected via the impugned order.

1.1 *Inter alia*, the ground on which the petitioner's application has been rejected is that he is not a fit and proper person under Regulation 4(g)(i) of the 2016 Regulation.

2. What is not disputed before me by the learned counsel for the petitioner is that an FIR bearing No.RC/219/2012, dated 3.7.2012, has been registered against the petitioner.

2.1 As a matter of fact, the registration of the FIR has been followed by the prosecution filing a chargesheet in the matter, on 17.02.2014.

3. Counsel for the petitioner says that the petitioner has no role in the alleged infraction of law, as reflected in the aforementioned FIR and/ or the chargesheet. It is also contended that an application for discharge has been filed before the concerned Trial Court. I am told that the application for discharge was filed as far back as on 13.01.2016.

4. On the other hand, learned counsel for the respondent says that given these antecedents the petitioner is not a fit and proper person and, therefore, the conclusion reached in the impugned order need not be disturbed. Counsel for the respondent, however, states fairly that the matter would attain a different connotation and perspective, if the discharge application filed by the petitioner is allowed by the concerned Trial Court.

5. In these circumstances, I am of the view that this writ petition at this juncture is in a sense pre-mature. The petitioner, therefore, is given liberty to approach this Court, once the discharge application is disposed of by the concerned Trial Court.

6. Given the fact that the discharge application was filed as far back as on 13.01.2016, the concerned Trial Court is requested to take

up the application for adjudication and dispose of the same at the earliest.

7. Learned counsel for the respondent, at this stage says that if the Trial Court allows the discharge application then the respondent could consider the case of the petitioner anew, if an application is made, notwithstanding the fact that the impugned order has been passed. This submission made by the learned counsel, on instructions, is taken on record.

7.1 In my view, the respondent should have no difficulty in considering a fresh application, if such circumstance arises, as it would, in a sense, give rise to certain facts which obviously were not considered while passing the impugned order.

8. Writ petition is disposed of. Consequently, the pending applications are also disposed of.

RAJIV SHAKDHER, J

FEBRUARY 05, 2018

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