

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 372 of 2019

(Arising out of order dated 04.07.2019 passed by the learned Single Judge in Writ Petition (C) No. 3288 of 2018)

- Harvinder Kaur Wife of Shri Navjeet Singh Tutejaa aged about 40 years R/o Tuteja Niwas, Near Raja Talab, Govind Nagar, Raipur, District Raipur Chhattisgarh.

----Appellant

Versus

1. Union of India Through Principal Secretary, Ministry of Corporate Affairs, New Delhi.
2. Insolvency and Bankruptcy Board of India, 7th Floor, Mayur Bhawan, Shanker Market, Connaught Circus, New Delhi.
3. State of Chhattisgarh Through The Collector, Raipur Chhattisgarh.
4. Union Bank of India, Through Branch Manager, Pandri Branch, Raipur, District Raipur Chhattisgarh.
5. Aditya Birla Housing Finance Limited, Office No. TF-15-A and 16, 3rd Floor Millennium Plaza, Bans Tal Raipur, District Raipur Chhattisgarh, through its Authorised Officer.

---- Respondents

WA No. 373 of 2019

(Arising out of order dated 04.07.2019 passed by the learned Single Judge in Writ Petition (C) No. 3298 of 2018)

- Navjeet Singh Tuteja S/o Amrik Singh Tuteja aged about 44 years R/o Tuteja Niwas, Near Raja Talab, Govind Nagar, Raipur, District- Raipur, Chhattisgarh.

---- Appellant

Versus

1. Union of India Through Principal Secretary, Ministry of Corporate Affairs, New Delhi.
2. Insolvency and Bankruptcy Board of India, 7th Floor, Mayur Bhawan, Shanker Market, Connaught Circus, New Delhi.
3. State of Chhattisgarh Through The Collector, Raipur Chhattisgarh.
4. Union Bank of India, Through Branch Manager, Pandri Branch, Raipur, District Raipur Chhattisgarh.
5. Aditya Birla Housing Finance Limited, Office No. TF-15-A and 16, 3rd Floor Millennium Plaza, Bans Tal Raipur, District Raipur Chhattisgarh, through its Authorised Officer.

---- Respondents

For Appellants	:	Shri Sumit Singh Rathore, Advocate
For Respondent-UOI	:	Shri B. Gopa Kumar, Assistant Solicitor General
For Respondent-State	:	Shri Siddharth Dubey, Deputy Government Advocate
For Respondent No.5	:	Shri Ashish Shrivastava, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

P. R. Ramachandra Menon, Chief Justice

26.09.2019

1. These appeals arise from the common judgment dated 04.07.2019 passed by the learned Single Judge, whereby interference was declined with regard to the relief sought for, for the reason that the statutory provision sought to be relied on was still to be notified by the Central Government.
2. The prayers in the writ petitions are in the following terms:

“10.1. That, this Hon'ble Court may kindly be pleased to take cognizance of this situation and matter be kind enough to pass an order for a fresh start for discharge of his qualifying that under Section 94 of the Act.

10.2. Any other relief, which this Hon'ble Court may deem fit and proper, may also be passed in favour of the petitioner together with cost of the petition.”
3. The prayer sought for was to consider the cases and contentions of the Petitioners afresh in conformity with the mandate of Section 94 of the Insolvency and Bankruptcy Code, 2016. When the matter was taken up by the learned Single Judge, it was point out that the said provision contained in Part-III was still to be notified and in the said circumstances, no benefit could be claimed with reference to the above provision. This plea was accepted and it was accordingly, that the writ petitions were dismissed as per common judgment dated 04.07.2019, which is put to challenge in these appeals.

4. We have heard Shri Sumit Singh Rathore, the learned counsel for the Appellant, Shri B. Gopa Kumar, the learned Assistant Solicitor General for Union of India, Shri Siddharth Dubey, the learned Deputy Government Advocate for the State and Shri Ashish Shrivatava, the learned counsel appearing for Respondent No.5.
5. It is submitted that the position continues as before and Section 94 is still to be notified. The factual position is conceded by the learned counsel for the Appellants as well.
6. In the said circumstances, no tenable ground is brought to our notice so as to call for interference. These appeals fail. They are dismissed accordingly, without prejudice to the rights and liberties of the Appellants to pursue appropriate remedy, in accordance with law, as and when course of action arises.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge