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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **02.01.2023**

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 21876 of 2022

Mr. Anil Kumar Ojha

... Petitioner

..Vs..

Insolvency and Bankruptcy Board of India
Rep. by its Chairperson
7th Floor, Mayur Bhawan
Shankar Market, Connaught Circus
New Delhi, Delhi 110 001.

... Respondent

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondent to consider the representation dated 03.03.2022 and 15.06.2022 sent by the petitioner to the respondent to conduct enquiry in the complaints filed by the petitioner before the respondent (COMP-11011/60/2021-IBBI dated 19.07.2021, IBBI/C/2021/00536 dated 20.08.2021 and IBBI/COMP/2022-23/00919 dated 26.04.2022) by giving opportunity to the petitioner.

For Petitioner

:: Ms. C.Jayachirthra

For Respondent

:: Mr. C.V.Ramachandra Murthy

**ORDER**

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The Writ Petition has been filed in the nature of a Mandamus seeking a direction to consider the representations dated 03.03.2022 and 15.06.2022 sent by the petitioner herein to the respondent, namely, Insolvency and Bankruptcy Board of India at New Delhi.

2. The petitioner sought enquiry into the complaints made before the said respondent dated 19.07.2021 and 20.08.2021 and 26.04.2021 and also to give opportunity to the petitioner herein.

3. In the affidavit filed in support of the Writ Petition, it had been stated that the petitioner is an Ex-Director of SLO Industries (corporate debtor) which is a MSME unit. SLO Industries had been admitted for the Corporate Insolvency Process (CIRP) by an order dated 04.11.2019 by the National Company Law Tribunal at Chennai, in CP/1264/2018. A Resolution Professional by name C.Ramasubramaniam was appointed. After taking charge, it is alleged by the petitioner, he committed irregularities while running the affairs of the company and therefore, the petitioner had given complaints on 19.07.2021 and on 20.08.2021. The respondent herein however rejected both the complaints by a letter dated 29.10.2021.



4. A review application had been filed on 23.11.2021 taking advantage of Regulation 7(5) of the Insolvency and Bankruptcy Board of India (Grievances and Complaint Handling Procedure) Regulations 2017. An order was passed directing re-examination of the complaints of the petitioner herein. The petitioner had sent nearly about four letters seeking such re-examination. A detailed report was again sent on 03.03.2022 to conduct enquiry.

5. An additional complaint on 26.04.2022 and representation on 15.06.2022 had also been sent by the petitioner. The respondent finally issued a reply on 14.07.2022 and stated that the representation had been taken on record and necessary order shall be passed. It is under these circumstances, seeking a Mandamus to examine the complaints, the present Writ Petition had been filed.

6. Heard Ms. C.Jayachithra, learned counsel for the petitioner and Mr.C.V.Ramachandra Murthy, learned counsel for the respondent.

7. The learned counsel for the respondent stated that necessary steps would taken to examine the complaints given by the petitioner and also stated that if materials are found to proceed



against the Resolution Professional, then necessary show cause notice would be issued, since opportunity will also have to be granted to the Resolution Professional to answer to the complaints.

8. It is a matter of procedure and such matter of procedure will have to be adhered by the respondent. This Court cannot dictate as to the nature of procedure but can only direct that principles of natural justice are to be adhered to.

9. After having heard the learned counsels, I would direct the respondent herein, if they had not already caused examination of the complaints, to examine the complaints given by the petitioner and proceed further in manner known to law and if required, issue show cause notice to the Resolution Professional and thereafter, after giving due opportunity again proceed in manner known to law and in accordance with the regulations. The entire process should be completed on or before 28.02.2023.

10. With the above observation, the Writ Petition is allowed.

02.01.2023

vsg
Index: Yes/No
Internet: Yes/No
Speaking / Non Speaking Order



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To

The Chairperson
Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan
Shankar Market, Connaught Circus
New Delhi, Delhi 110 001.



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C.V.KARTHIKEYAN, J.,

vsg

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