

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/588/2024
IN THE MATTER OF:
ADITYA VIKRAM AGARWAL

VS.

INDIAN BANK AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR
Date : 11th July, 2024.

Appearance:
Mr. Anirban Ray, Adv.
Mr. Avirup Chatterjee, Adv.
Mr. Rishav Das, Adv.
For petitioner
Mr. S.Pal Choudhuri, Adv.
Miss S.Paul, Adv.
Miss. S.Sikder, Adv.
For Indian Bank
Mr. Dipankar Das, Adv.
For respondent no.3

The Court : The petitioner has an alternative remedy. The contention of the petitioner is that as there has been violation of principles of natural justice, the jurisdiction of this Court has been invoked. This is not accepted. The National Company Law Tribunal(NCLT) has passed an order on May 6, 2024 on an application under Section 95 of the Insolvency and Bankruptcy Code, 2016(in short, IBC). The resolution professional has been appointed and directed to file a report. The personal guarantor has been allowed to raise objection within 7 days from filing of the report. Mr. Roy, learned Advocate of the petitioner contends that the Tribunal has denied the petitioner an

opportunity to raise any objection to the application under Section 95. This amounts to violation of the principles of natural justice. When an application under Section 95 has been filed, the interim moratorium commences on the date of the application. Under Section 97, the resolution professional is appointed. Section 99 deals with submission of report by the resolution professional and Section 100 deals with admission or rejection of application. It provides that the adjudicating authority shall within 14 days from the date of submission of the report under Section 99 pass an order either admitting or rejecting the application referred to in Section 94 or 95, as the case may be. A conjoint reading of the Sections indicates that the hearing for admission of an application under Section 95 only takes place if the report is filed and at that stage all persons are entitled to be heard. The NCLT permitted the petitioner to raise objection.

Thus the contention of Mr. Roy that the principles of natural justice have been violated is not correct. Section 100 would be followed by the Tribunal and the order does not indicate any right has been curtailed so far.

The application is disposed of without any order as to costs.

All parties are to act on the server copy of this order.

(SHAMPA SARKAR, J.)

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