



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

OFFICIAL LIQUIDATOR'S REPORT (OLR) NO.4/2018 IN
COMPANY PETITION NO.2/2005

In the matter of M/s. Marc Medicare Ltd.

WITH

COMPANY APPLICATION NO. 87/2009 IN CMP NO.2/2005

Official Liquidator .vs. Mohammad Zafar s/o Mohd. Faizuddin and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Dr. Anjan De, Advocate for Official Liquidator.
Ms K. Satpute, Court commissioner.

CORAM : ANIL L. PANSARE, J.

DATE : 19.01.2024

Dr. De, learned counsel for the Official Liquidator, on instructions, submits that he is not pressing for order on Official Liquidator's Report No. 4/2018.

Official Liquidator's Report No.4/2018 stands disposed of as not pressed.

COMPANY APPLICATION NO. 87/2009

The application has been filed by the Official Liquidator in terms of Section 454 (5) and (5A) of the Companies Act, 1956. Three Directors are made accused for not submitting statement of affairs within 21 days in terms of Sub Section (1), (2) and (3) of Section 454 of the Act.

I am informed that accused nos.1 and 2 were served in the year 2009. Both, however, did not appear before the court. The Official Liquidator has, thereafter, not taken any step to secure their presence and in the year 2021, for the reasons best known to him and at his instance, the Court Commissioner came to be appointed for recording evidence. Thereafter also, the Official Liquidator has not taken any step

to secure presence of the accused before the Commissioner. Resultantly, there is absolutely no progress in the complaint case for last 15 years.

The complaint filed under Section 454 has to be tried as summons case. Chapter XX of the Criminal Procedure Code, 1973 deals with the procedure for summons case. Section 258 provides for stopping of case at any stage by recording reasons.

In my view, what has been stated above, are good reasons to stop the proceedings. It appears that except for wasting judicial time and public money in tracing the accused, no fruitful result would be achieved in continuing with the proceedings. Had the Official Liquidator acted promptly, some fruitful result could have been expected. Having failed to do so and considering the long span of 15 years wherein there is no progress, in my considered view, the proceedings are required to be stopped/dropped in terms of Section 258 of the Criminal Procedure Code, 1973. Order accordingly.

The official liquidator shall place on record the status of assets and liabilities to proceed with the dissolution of the company.

The Court Commissioner stands discharged. The Official Liquidator shall quantify and pay the Commissioner's charges, in accordance with rules.

(Anil L. Pansare, J.)