

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – II, CHENNAI**

IA/1693/2024

IN

IA(IBC)/1512/CHE/2024

IN

IBA NO.1099 OF 2019

*(Filed under Section 60(5) of Insolvency And Bankruptcy Code, 2016 Read
with Rule 11 of the National Company Law Tribunal Rules, 2016)*

Giriraj Enterprises,
1, Modibaug Commercial,
Shivajmgnagar, Pune - 411 016,
Maharashtra

Represented by its CEO

Mr. Prafulla Premchand Khinvasara,

Email : prafulla@malpanio.com

...Applicant

Vs.

1. State Bank of India,
On behalf of Joint lenders of
M/s Regen Powertech private Limited & .
Red Cross Building, 2nd Floor,
No.32, Red Ross Road,
Egmore, Chennai - 600 008.

...Respondent

2. Renuka Devi Rangaswamy (RP),
Resolution Professional of Consolidated
M/s Regen Powertech private Limited &
Regen Infrastructure and Services Private Limited
No.9, Arthi Illam, 3rd Street,
Jothi Nagar, Uppulipalayam (Post),
Coimbatore - 641 015.

...Respondent

Order pronounced on 14th October 2024

CORAM:

Shri JYOTI KUMAR TRIPTHI, MEMBER (JUDICIAL)

Shri RAVICHANDRAN RAMASAMY, MEMBER TECHNICAL)

Present:

For Applicant

*: Ms. A.Vidya, P. Mohan Prasad,
V. Jayashree and N. Varsha, Counsels.*

ORDER

(Hearing Conducted through Video Conferencing)

Under Adjudication is an application filed under section 60(5) of the Insolvency and Bankruptcy Code,2016 by the Giriraj Enterprises Operational creditor of the Corporate debtor, this application has been filed seeking the following relief-

i) *To Implead the Applicant as the 2nd Respondent in
IA(IBC)/1512(CHE)/2024*

2) It is submitted that the Applicant Giriraj Enterprises, is a partnership firm providing business to the Corporate debtors, It is submitted that applicant has stake in all aspects of CIRP including appointment of RP.

3. It is also submitted by the Applicant that the Applicant is an operational creditor and therefore does not participate in the appointment or change of RP, since first Respondent is attempting to derail the entire adjudication process by filing the application for replacement of RP applicant is filing this application to be impleaded in the application.

5. It is submitted that the SBI and lender are not having any right or interest in appointment of RP since it is only Coc's of respective Corporate debtor have power to replace RP under section 27 of IBC.

6. Therefore, it is submitted that the Applicant herein be impleaded as a party in IA(IBC)/1512(CHE)/2024 and the views of the Applicant be

taken into consideration while deciding on the replacement of the RP of RPPL and RISPL.

7 FINDINGS OF THIS TRIBUNAL

7.1. This application is filed by the Operational creditor of the Corporate debtor to implead the operational creditor in an application filed by the Financial creditor in IA(IBC)/1512(CHE)2024, the said application is filed for the replacement of RP in RPPL and RISPL.

7.2. Replacement of the resolution professional is envisaged in section 27 of the Insolvency and Bankruptcy Code for ready reference the section is extracted below

Section 27 Replacement of resolution professional by committee of creditors.

- 1) *Where, at any time during the corporate insolvency resolution process, the committee of creditors is of the opinion that a resolution professional appointed under section 22 is required to be replaced, it may replace him with another resolution professional in the manner provided under this section*
- 2) *The committee of creditors may, at a meeting, by a vote of sixty-six per cent. of voting shares, resolve to replace the resolution professional appointed under section 22 with another resolution professional, subject to a written consent from the proposed resolution professional in the specified form.] .*
- 3) *The committee of creditors shall forward the name of the insolvency professional proposed by them to the Adjudicating Authority.*
- 4) *The Adjudicating Authority shall forward the name of the proposed resolution professional to the Board for its confirmation and a resolution professional shall be appointed in the same manner as laid down in section 16.*
- 5) *where any disciplinary proceeding are pending against the proposed resolution professional under sub-section (3), the resolution professional appointed under section 22 shall continue till the appointment of another professional under the section.*

7.3. On reading of section 27 of the Insolvency and Bankruptcy Code it is clear that the right of replacement of RP is not provided to the operational creditor and necessary party required for adjudication will be heard in lines of Principle of Natural justice. However we don't find any reasons to go beyond the statute and implead Operational creditor in an application sought for replacement of RP.

7.4. For the reasons outlined above, we are of the considered opinion that the operational creditor should not be impeded in the application filed by the Coc in IA(IBC)/1512(CHE)/2024. Accordingly **IA/1693/2024** in **IA(IBC)/1512/CHE/2024** is Dismissed no order as to costs.

-SD-

**RAVICHANDRAN RAMASAMY,
MEMBER TECHNICAL**

-SD-

**JYOTI KUMAR TRIPTHI,
MEMBER (JUDICIAL)**