IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - I

ITEM No.303

IA/286(AHM)2023
in
IA/861(AHM)2022
in
CP(IB) 665 of 2019

Proceedings under Section 60(5) IBC r.w Rule 154 & 11 of NCLT Rules, 2016

IN THE MATTER OF:

Arvind Gaudana Ex-Liquidator For Gujarat State Construction Corporation Ltd **.....Applicant**
V/s **.....Respondent**
Executive Engineer & Anr

Order delivered on 02/04/2024

Coram:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sameer Kakar, Hon,ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for the pronouncement of the order. The order is pronounced in the open court, vide separate sheet.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH COURT-1

IA/286(AHM)/2023 in IA/861(AHM)/2022 in CP (IB)665/2019

(Filed Section 60(5) of IBC, 2016 and Rule 154 of NCLT Rules)

MR.ARVIND GAUDANA
Ex-Liquidator of
M/s. Gujarat State Construction Corporation Limited.
(Relieved on 08.02.2023)
Having office at:
307, Ashirwad Paras, Corporate Road,
Nr. Prahladnagar Garden, Satellite,
Ahmedabad.

... Applicant

VERSUS

1. **Executive Engineer**
   Captial Project Div. No. 4,
   Gandhinagar- 382 0161.

2. **Superintending Engineer**
   Capital Project Circle,
   Road and Building Department,
   Block No. 14, New Sachivalaya,
   Gandhinagar.

...Respondents

<u>In the matter of :-</u>

Mr. Arvind Gaudana **... Applicant**

Versus

Executive Engineer & Anr.

... Respondent

CORAM:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SAMEER KAKAR, HON'BLE MEMBER (TECHNICAL)

APPEARANCE:

For the Applicant/RP: Mr. Arjun Sheth, Advocate
For the Respondent :

Order Pronounced on 02.04.2024

O R D E R
(Per: Bench)

1. IA/286/2023 is filed under Section 60(5) of IBC, 2016 and Rule 154 of NCLT Rules, seeking the following payers:-

   a) *Pass appropriate order to inter alia deal with and consider the affidavit in replies filed by the respondent nos. 1 and 2 in IA No. 861 of 2022 (Annexure D) and be pleased to grant reliefs as sought for in prayer clause IV(c) and (d) of IA No. 861 of 2023, being as follows;*

   i. *Pass an order authorizing Executive Engineer, Capital Project Div. no. 4, Gandhinagar 382 016 for signing [and forwarding) of Application for Monthly pension Form 10-D (EPS) under Employee's Pension Scheme, 1995 and other relevant papers as required under Employees Provident Fund Organization as per requirement of Provident Fund Act, and do necessary proceedings for recommendation of payments on behalf of the Corporate Debtor [for the benefit of ex- employees];*

ii. Direct the Superintending Engineer, Capital Project Circle, Road and Building Department, Block No. 14, New Sachivalaya, Gandhinagar to provide at least two quarters to the Applicant to continue to keep and preserve old records of corporate debtor, being Government Company, for a period of eight years and that, the Superintending Engineer, Capital project will preserve the records under the supervision of the Ex- Liquidator;

b) Pass appropriate order modifying / clarifying the aspect in the order dt. 08.02.2023 passed in IA No. 861 of 2022 in CP(IB) No. 665 of 2019 of delivering the books and files of the Corporate Debtor to the ROC by the Ex-Liquidator; and/or

c) Such other and further relief(s) as may deem fit in the interest of justice.

2. The applicant herein is the ex-liquidator of the Corporate Debtor who has filed an IA/861/2021 seeking dissolution of the Corporate Debtor. It is the case of the applicant that there were following prayers made in IA/861/2021 seeking dissolution of Corporate Debtor.

"IV(c) Pass an order authorizing Executive Engineer, Capital Project Div. no. 4, Gandhinagar 382 016 for signing of Application for Monthly pension Form 10-D (EPS) under Employee's Pension Scheme, 1995 and other relevant papers as required under Employees Provident Fund Organization as per requirement of Provident Fund

Act, and do necessary proceedings for recommendation of payments on behalf of the Corporate Debtor.

IV(d) Direct the Superintending Engineer, Capital Project Circle, Road and Building Department, Block No. 14, New Sachivalaya, Gandhinagar to provide at least two quarters to the Applicant to continue to keep and preserve old records of corporate debtor, being Government Company, for a period of eight years and that, the Superintending Engineer, Capital project will preserve the records under the supervision of the Liquidator."

3. This adjudicating authority pronounced the order on 08.02.2023 in IA/861/2021 and the Corporate Debtor was dissolved and the applicant herein was discharged of his duties and responsibilities as Liquidator of the Corporate Debtor.

4. The applicant herein states that no observation was given by this Adjudicating Authority regarding prayer 4 (c) and (d) of IA/861/2023. Further, adjudicating authority inadvertently recorded that the Registrar and the Liquidator are directed to send all the books and files of CD to the RoC. Hence, present application is filed.

5. Reply to this has been filed by R-1 under diary No. 5062 dated 11.12.2023 and it is stated in the reply that appropriate order in the interest of justice may be passed by this Adjudicating Authority. R-2 has also filed reply on similar lines as R-1 by way of affidavit dated 08.11.2023.

6. We have heard the parties and have perused the documents. Applicant is seeking correction in order dated 08.02.2023 in IA/861/2021. Relief sought is not objected by opposite side and is formal in nature.

7. In view of above, IA/286/2023 shall stand allowed and Relief sought in IA/861/2021 in relief clause *"iv(c) & "iv(d)* also stand allowed. Further, the order dt. 08.02.2023 passed in IA No. 861 of 2022 qua delivering the books and files of the Corporate Debtor to the ROC by the Ex-Liquidator is modified accordingly as prayed for.

8. This order to form part and parcel of order dated 08.02.2023 in IA/861/2021.

9. The ***Registry*** is directed to send e-mail copies of the order forthwith to all the parties and their Learned Counsel for

information and for taking necessary steps. Files be consigned to the record.

-Sd-

SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)

Mehul Desai/Steno