



NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

111. I.A. 198/2021, I.A. 56/2024

I.A. 4949/2024, I.A. 5161/2024

In

C.P. (IB)/27(MB)2019

CORAM: MS. LAKSHMI GURUNG, MEMBER (J)
SH. CHARANJEET SINGH GULATI, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **28.11.2024**

NAME OF THE PARTIES: Bank of India

V/s.

Housing Development and Infrastructure Limited

Appearance

For Applicant : Adv. Simran Singh in I.A. 198/2021, Adv. Shruti
Singhi i/b Menon & Mankana in I.A. 56/2024. Adv.
Juy Saha, Adv. NIPCW Gautam, Adv Harish K.
Raman i/b Rathina Maravarman for Central Bank of
India in I.A. 5161/2024.

For Respondent : Adv. Shadab S. Jan a/w. Adv. Prerana Wagh a/w.
Adv. Prangana Barua i/b. Adv. Crawford Bayley &
Co. for RP in IA/198/2021, I.A./56/2024,
I.A./5161/2024, I.A./4949/2024. Adv. Abhishek
Khare i/b. Prakash Shojal, Adv. for R-4 in I.A.
5161/2024.

SECTION 7 OF THE IBC, 2016

ORDER

Hearing Through: Virtually and Physical (Hybrid) Mode

I.A. 198/2021

1. This Application has been filed by the 29 employees of the Corporate Debtor seeking following prayers:



- (a) *To allow the present application in the light of safeguarding the genuine interests of the Applicants/Employees of HDIL and in interest of equity and justice;*
- (b) *To pass an order directing the Respondents to release/ratify the outstanding salaries, PF, TDS of the applicants and other statutory dues during the pendency of ongoing CIRP against corporate debtor till date and other dues as per existing terms and conditions of the employment of the Applicants.*
- (c) *To pass an order restricting the respondents to reduce/curtain/alter the salaries/wages of the applicants or any modification in their existing contract of employment with erstwhile management of the Corporate Debtor.*
- (d) *To pass an order directing the Respondent to update the Applicants formally on the status of Resolution Plan submitted, if any, with regard to the Corporate Debtor.*
- (e) *To pass an order directing the Committee of Creditors to consider and ratify the payment of arrears of salary and other pending statutory dues of the Applicants according to law, till date of completion of CIRP.*
- (f) *To direct Respondent No. 2, to contribute funds to the Corporate Debtor, so as to enable the Respondent No. 1, to make all payments towards salaries to the Applicants.*
- (g) *To pass any other or further order of any nature, direction as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.*



2. Pursuant to order dated 21.06.2024, the RP has filed the affidavit dated 17.08.2024 wherein three types of employees have been illustrated as follows:

(i) Following 9 (Nine) Employees are still working with the Corporate Debtor:

Sr. No.	Applicant No.	EMP Code	Employee Name
1.	3	HDIL-00705	Anand J Almeida
2.	5	HDIL-01307	Shailesh S Nandan
3.	6	HDIL-00505	Navin Thomas
4.	7	HDIL-00689	Nitin D wairkar
5.	11	HDIL-00243	Prasad K Patil
6.	15	HDIL-01184	Ramkaran S Verma
7.	20	HDIL-00287	Rajesh R Nadkarni
8.	22	HDIL-00498	Avinash Vyawahare
9.	24	HDIL-01310	Shilpa M Jadhav

(ii) Following 12 (Twelve) employees have resigned and are no longer on the role of the Corporate Debtor:

Sr. No.	Applicant No.	EMP CODE	Employee Name	Date of Resignation
1	1	HDIL-02339	Rubeena Shaikh	25.12.2019
2	2	HDIL-00844	Amit Sankhe	30.08.2021
3	4	HDIL-00267	Khatib Rehman	02.04.2021
4	8	HDIL-00187	Avinash Madane	22.02.2021
5	9	HDIL-01400	Archana Patil	22.04.2021
6	12	HDIL-00307	Sachin Karekar	22.02.2021
7	13	HDIL-01411	Prasad karekar	26.10.2020



8	14	HDIL-00320	Sanjay Bhadwankar	30.09.2021
9	16	HDIL-00937	Mohd. Imran Shaikh	09.03.2021
10	17	HDIL-02324	Taj Mohd. Shah	25.12.2019
11	18	HDIL-	Deepak Singh	16.03.2020
12	21	HDIL-	Subhash Rangari	16.08.2021

(iii) Following 3 (Three) employees were terminated by the RP:

Sr. No.	Applicant No.	EMP CODE	Employee Name	Date of Resignation/ Termination
1.	10	HDIL-01940	Anilkumar Pandey	10.11.2021
2.	19	HDIL-02492	Rohit Kumar	28.10.2022
3.	23	HDIL	Balu Dhattrak	12.11.2021

3. It was submitted that the Applicants are not seeking the salaries prior to CIRP and prayers are confined to their dues for the period commencing from initiation of the CIRP till they worked with the Corporate Debtor.
4. We note that the Application was filed on 25.01.2021. From the details of the 24 employees given in the above table, it is noted except employee **Rubeena Shaikh & Prasad Karekar** all have continued with the Corporate Debtor beyond 25.01.2021.
5. Therefore, with regard to prayer (b), with the consent of the parties it is directed that all the above employees to make representation to CoC through RP about their dues pertaining to the period from commencement of CIRP i.e. 20.08.2019 to 25.01.2021, to be included



under CIRP Cost. CoC to consider their claims in accordance with the provisions of the Code.

6. The prayer (a) is general nature and no directions are required to be passed.
7. As far as prayer (c) is concerned directions relating to curtailment or otherwise of the quantum of salary is beyond jurisdiction of this Tribunal. It is up to the RP and CoC to take decisions in their commercial wisdom considering the laws of the land.
8. As far as (d) is concerned regarding the update about the status of the Resolution Plan, no direction can be issued to the RP as the status of the Applicants before us is that of the Operational Creditors and in case Operational Creditor are less than 10% of total claim, they are not entitled to appoint AR or participate in CoC meetings resultantly they are not entitled to obtain the copy of the Resolution Plan, hence prayer 'd' is rejected.
9. As far as prayers (e) & (f) are concerned seeking direction to CoC to contribute to the fund of the Corporate Debtor to make the payments available to the Applicants, they are subsumed in the directions given under prayer (b) and no specific directions can be granted which lies in domain of commercial wisdom of the CoC. Needless to say, directions are given to RP and CoC to consider the claim of the Applicants in accordance with the provisions of I.B.C.
10. Accordingly, I.A. **is disposed of.**

I.A. 56/2024

1. Learned counsel for the Applicant submits that the amended Application has been filed. We note from DMS that the same was filed on 28.11.2024 and is lying under scrutiny. Amended copy has been served on the Respondent RP. RP to reply within 2 weeks. Rejoinder, if any, be filed within one week thereafter.



2. Reply be filed within 2 weeks. The Applicant is directed to ensure that the same is reflected on DMS well before the next date of hearing.
3. List on **29.01.2025**.

I.A. 4949/2024

1. This Application was filed seeking urgent listing I.A. No. 286/2024.
2. I.A. 286/2024 was listed on 27.11.2024 and is coming up for hearing on 03.01.2025. Hence this I.A. 4949/2024 has become infructuous and is **disposed of**.
3. Learned counsel for the RP submits that through DMS they became aware that I.A. No. 286/2024, rejoinder and supplementary agreement was filed by the Applicant which is not available with the counsel for the RP. Applicant is directed to the provide the copies to RP and RP to file response to the same within 2 weeks and ensure that the same is reflected on DMS well before the next date of hearing. **I.A. No. 286/2024** is already listed on 03.01.2025.

I.A. 5161/2024

Heard Ld. counsel and arguments to continue on **02.12.2024 at 3.30 PM.**

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)
---Sanjeet---

Sd/-
LAKSHMI GURUNG
Member (Judicial)