

Making a public announcement of the Corporate Debtor in Form-A, in newspapers which did not have a reasonably wide circulation in the locality, vitiates the whole process and warrants termination of the CIRP

The NCLT Hyderabad, in the case of **All India Kisan Sabha vs Vibha Agro Tech Limited [CP(IB) No. 645/7/HDB/2018] dated February 21, 2025**, has held that, though there are no business operations carried on by the CD, the factories/plants which are in existence are to be maintained, requiring electricity, water supply, other maintenance works and most importantly the deployment of security personnel for safeguarding the premises of the factory, and all these might have genuine claims to be taken into consideration during the CIRP of the CD. The Tribunal stated that Regulation 6 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, provides that the IRP must issue the public announcement in Form A in one English and one regional language newspaper with wide circulation at the location of the registered office and principal office, if any, of the corporate debtor. Thus, even if the defence of the Resolution Professional that the CD was defunct since 2017, and there is no requirement of public announcement in certain areas, is accepted to be true, it cannot be said that there is no necessity of issuance of a public announcement in the areas where the factories of the CD are located.

The Tribunal also noted that there were claims from the related companies of the CD stating that the machinery belonging to them was lying at the factory of the CD, and therefore, non-issuance of public announcement at the areas where the factories/plants of CD are located would deprive the genuine claimants of their rights available under the law. Though Regulation 6 provides the authority to IRP to form an opinion on whether to issue public notice in Form-A at any other location where the CD conducts material business operations, the NCLT observed that the IRP cannot ignore the fact that the processing plants are very important places for a CD as the whole activity is carried out and coordinated through these places and generally registered office is used only for administrative and financial control of the CD.

The NCLT observed from a careful analysis of the whole chain of production of seeds, collection of seeds and its supply to the seed processing plants and then the process of payment to ultimate growers and suppliers of seeds, that the principal business of the CD is not in Hyderabad but at other places where the seeds are grown and processed and that the IRP cannot ignore these facts while making an opinion for not issuing public notice at the locations of processing plants and other places, other than registered office of the Corporate Debtor. The Tribunal also observed that in the category of English Newspapers, the circulation of the Economic Times is 15,227, while the highest circulation is of Deccan Chronicle with 4,29,627. Similarly, in the category of Telugu Newspapers, the circulation of Nava Telangana is 24,576, while the highest circulation is of Sakshi with 2,36,500. Thus, it cannot be said that the Public Announcement under Regulation 6 was issued in newspapers with wide circulation, even at the place where the registered office of the Corporate Debtor is located.

Therefore, finding non-compliance of Regulation 6 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 by the IRP in making public announcement of the CD in Form-A, and thus, it vitiates the whole process conducted thereafter, the NCLT terminates the CIRP from the stage of "Public announcement of corporate insolvency resolution process"

as per Section 15 of IBC, 2016. The NCLT also directed the Resolution Professional to issue a fresh Public Announcement in Form-A as per Section 15 of IBC, 2016 and in compliance of Regulation 6 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 in newspapers having wide circulation at the registered office, principal office and the factories/processing plants of the Corporate Debtor, within three days from the date of this order.