

IBC gives discretion only to the Committee of Creditors and not the Insolvency and Bankruptcy Board of India to substitute an Insolvency Resolution Professional (IRP)

The **Madras High Court** in the case of **K.J. Vinod (Insolvency Professional) v. Registrar, NCLT, Chennai [W.P. No. 22949 of 2025]** dated **July 08, 2025**, has ruled that the Insolvency and Bankruptcy Board of India (IBBI) is mandated to accept the recommendation of the applicant, be it, Financial Creditor (FC), Operational Creditor (OC) or Corporate Debtor (CD), for the appointment of IRP and it is only the CoC in charge of management of the company, that has the discretion to change the IRP.

Briefly, the petitioners had approached the High Court seeking to partly quash the order passed by the NCLT Chennai to the limited extent of having appointed a person other than the petitioner as the IRP of Annie Traders Private Ltd (2nd Respondent), alleging that it was in excess of the jurisdiction as vested under the IBC and violative of section 16(2) of the IBC.

The High Court agreed with the petitioner and referred to Sections 10(3)(b) and 16(2) of the IBC, to state that in case of applications filed by FC or CD seeking ownership, it is incumbent on the IBBI to appoint an Interim IRP as suggested by the FC or CD as the case may be. The Court also explained Section 16(3) of IBC to state that leeway for the IBBI to appoint RP as per its discretion would stand triggered only if the OC does not give a proposal for the appointment of a specific IRP.

The High Court also referred to Sections 22 and 27 of the Insolvency and Bankruptcy Code 2016 (IBC), which talk about the discretion of the Committee of Creditors (CoC) to appoint an Insolvency Resolution Professional (IRP). Thus, if FC, OC, or CD has named IRP in the petition, the said IRP needs to be appointed. One appointed, only the CoC can change the IRP, subject to necessary compliance with the Code.

Link - https://mhc.tn.gov.in/judis/madras-do/index.php/casestatus/viewpdf/WP_22949_2025_XXX_0_0_07072025_151_208.pdf