IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
COURT-IV

I.A. 5202 ND 2025
IN
C.P. IB 284 (PB) OF 2021

IN THE MATTER OF:

Consortium of AKB Ventures LLP

...Applicant No. 1

And

Sustainable Projects Private Limited

...Applicant No. 2

Versus

Narender Kumar Sharma
Resolution Professional of
Spaze Towers Private Limited

...Respondent No.1

Mr. Devendra Bhardwaj

...Respondent No. 2

Mr. Vivek Sharma

...Respondent No. 3

AND IN THE MATTER OF:

VIVEK KHANNA & ORS

...Financial Creditors

Versus

SPAZE TOWERS PVT. LTD.

...Corporate Debtor

Order Pronounced on: 05.10.2026

CORAM:

SHRI MAHENDRA KHANDELWAL
HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Mr. Gurcharan Singh, Mr. Amardeep Singh, Advs.

For the RP : Mr. Karan Gandhi, Mr. Sikhar Tiwari, Mr. Pratham Bansal, Ms. Riya Jain, Ms. Vidhika Kapoor, Advs.

ORDER

PER: ATUL CHATURVEDI, MEMBER (TECHNICAL)

1. The present Application has been filed by the Applicants under the provisions of Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 ("NCLT Rules, 2016") seeking the following reliefs:

(a) pass an immediate order declaring the outcome of the CoC voting process scheduled from 19.10.2025 to 21.10.2025 as null and void;

(b) direct the immediate removal of the Respondent, Mr. Narender Kumar Sharma, as the Resolution Professional of the Corporate Debtor for his biased, collusive, and partial conduct;

(c) direct for appointment of a new, independent Resolution Professional to take charge of the CIRP;

(d) direct an investigation by the IBBI into the conduct of the Respondent and his appointee, Mr. Devender Bardwaj, Mr. Vikas Sharma for illegally influencing the CoC vote;

(e) direct the newly appointed Resolution Professional to provide the Applicant with all pending information and clarifications as sought by them (in terms of the prayers in their earlier application);

(f) direct the initiation of a new, fair voting process with a reasonable timeline that does not coincide with national holidays, ensuring all creditors have a fair opportunity to participate;

SUBMISSIONS OF THE APPLICANTS:

2. On 29.05.2025, the Respondent published Form-G in compliance with Section 25(2)(h) of the Insolvency and Bankruptcy Code, 2016, inviting

Expressions of Interest ("EOI") from prospective resolution applicants by 12.06.2025. The Form-G was issued under three categories, namely: (i) Category 1 – twelve (12) projects along with the Corporate Debtor; (ii) Category 2 – thirteen (13) projects along with the Corporate Debtor; and (iii) Category 3 – only Project "Arrow" without the Corporate Debtor. The Applicant submitted its EOI under Category 1 on 12.06.2025, involving twelve (12) projects along with the Corporate Debtor and deposited INR 50,00,000/- towards the Earnest Money Deposit ("EMD").

3. The Applicant was included in the final list of Prospective Resolution Applicants ("PRA") issued on 07.07.2025. Thereafter, vide email dated 12.07.2025, the Respondent shared the Virtual Data Room ("VDR") with the Applicant, through which it commenced due diligence of the Corporate Debtor.

4. While examining the documents provided in the VDR, the Applicant identified several discrepancies and queries with respect to the entries in the provisional Balance Sheet as on the initiation of CIRP, causing problems in preparing a Resolution Plan. The Applicant, vide various emails, raised specific queries and requested additional documents. However, the Resolution Professional failed to provide the same and has been in collusion with the consortium of Ex-Directors to derail the CIRP and handover the Corporate Debtor to the ex-promoters who were responsible for initiation of the CIRP.

5. Despite the failure of the Resolution Professional to provide the requested documents, the Applicant submitted a revised Resolution Plan on 01.10.2025, on the basis of incomplete information, as the Resolution Professional failed

to fulfil his duties and obligations under Section 208(2)(a) and (e) of the Code and the Code of Conduct under Regulation 7(2)(h) of the IBBI (Insolvency Professionals) Regulations, 2016.

6. It is submitted that only two PRAs, namely the Applicant and the consortium of ex-promoters, submitted Resolution Plans. The RP's conduct has systematically destroyed the level playing field, violated the principles of natural justice, and tainted the entire CIRP, rendering the ongoing voting process non-est and void. The Applicant seeks intervention of this Tribunal to prevent irreparable prejudice and restore the sanctity of the Code.

Illegal canvassing and lobbying by RP's appointee to influence CoC voting

7. The Respondent's bias is not limited to information asymmetry but extends to actively influencing the CoC vote. Employees of the Corporate Debtor, under the direct supervision and control of the Respondent, are allegedly canvassing for the ex-promoters' plan. Mr. Devender Bardwaj and Mr. Vikas Sharma, currently employed by the Corporate Debtor and paid from CIRP costs, are alleged to have engaged with CoC members by forwarding messages, making calls and circulating materials to influence the vote in favour of the ex-promoters.

8. The Applicant relies upon a WhatsApp message received by a homebuyer, Dr. Rajeev Ahuja, and an email exchange dated 19.10.2025, wherein the alleged canvassing by Mr. Devender was brought to the notice of the AR and the Respondent. The Respondent, while stating that the staff belonged to the Corporate Debtor and not the RP, also acknowledged that forwarding such messages by an employee of the Corporate Debtor was "not in the right spirit".

The Applicant contends that employees of the Corporate Debtor operate under the RP's authority during CIRP and that failure to stop, investigate or discipline such conduct constitutes a dereliction of statutory duty.

9. Such active lobbying by personnel under the RP's control, according to the Applicant, vitiates the entire voting process and constitutes a breach of the RP's duty of neutrality, independence and impartiality under Section 208(2)(a) and (e) of the Code and Regulation 7(2)(h) of the IBBI (Insolvency Professionals) Regulations, 2016. Reliance is placed on Swiss Ribbons Pvt. Ltd. v. Union of India (2019), to contend that the RP is required to act as an independent facilitator.

Gross information asymmetry and deliberate withholding of information

10. The RP has a statutory duty under Section 25(2)(g) of the Code and Regulation 36 of the CIRP Regulations to provide all PRAs equal access to relevant information and ensure a fair and competitive process. The Applicant states that it had earlier filed I.A. No. 4728/2025, on or about 19.09.2025, bringing the RP's non-cooperation to the notice of this Tribunal.

11. Through various emails, the Applicant sought, inter alia, Tally data/Trial Balance of the Corporate Debtor, details of pending work tower-wise, bifurcation of claims, BBA copies, details of unsold units, and clarifications regarding discrepancies in the Information Memorandum ("IM") and RERA website. The Respondent allegedly withheld material information, provided incomplete data, or denied access citing "confidentiality", despite the Applicant having executed the requisite undertaking. This, according to the

Applicant, severely prejudiced its ability to formulate a comprehensive Resolution Plan.

12. The prejudice is stated to be aggravated as the only competing PRA is a consortium of the ex-directors of the Corporate Debtor, who, by virtue of their previous positions, already possess the information denied to the Applicant. Further, the ex-directors, as members of the CoC, were privy to the Applicant's confidential Resolution Plan, including its financial intricacies and strategic proposals, while no reciprocal opportunity was afforded to the Applicant. The Applicant contends that this amounts to a violation of natural justice and procedural fairness and establishes collusion with the ex-directors, breaching the RP's duties under Section 208(2)(a) and (e) of the Code.

Breach of natural justice by circulation of two different compliance report

13. The Respondent initially raised queries regarding the viability and feasibility of its Resolution Plan and sought undertakings vide email dated 10.10.2025, to which the Applicant responded and provided the required undertakings on 14.10.2025. However, during a virtual meeting with homebuyers on 19.10.2025, the Applicant came to know that its Resolution Plan had been declared "non-compliant" in one of the proposed categories, despite such finding never having been communicated to it.

14. The Respondent thereafter prepared and circulated two fundamentally different compliance reports: one shared with the Applicant indicating that its Resolution Plan was compliant with the Code and regulations, and another shared with the CoC declaring the plan non-compliant in respect of a specific category or requirement. The alleged non-compliance related to a matter for

which no query or clarification had previously been sought from the Applicant. Circulation of conflicting reports constitutes bad faith, misrepresentation and manipulation, and violated audi alteram partem, the RP's duty of transparency and fairness, Regulation 39(3) of the CIRP Regulations and Section 208(2)(a) of the Code. The Applicant contends that the conduct demonstrates bias and collusion with the competing PRA and was intended to prejudice the CoC's evaluation of its Resolution Plan.

15. The e-voting process conducted from 19.10.2025 to 21.10.2025 was deliberately and systematically vitiated. The Respondent initiated voting during the Diwali holiday period, when, according to the Applicant, over 95% of CoC members, including individual homebuyers and institutional creditors, were on holiday. Such timing seriously undermined meaningful participation and prevented creditors from deliberating internally, obtaining necessary approvals and casting informed votes.

16. Mr. Vinod Jangra, an allottee and CoC member, informed the RP on 21.10.2025 of non-receipt of the voting link and credentials and sought an extension. In another instance, Mr. Sunil Jawa stated that he could not participate in the voting process as the user ID and password were sent to a defunct email ID, despite the AR having his active email ID and regularly circulating minutes of CoC meetings thereon. The Applicant contends that this establishes targeted disenfranchisement and that the voting process was "incurably tainted and void ab initio".

17. The Applicant formally raised these concerns with the Respondent/RP vide email dated 20.10.2025, objecting to the circulation of two different

compliance reports and unauthorized communication by employees of the Corporate Debtor with CoC members to influence voting in favour of the suspended directors. The Applicant demanded immediate rectification, furnishing of the correct report, clarification to the CoC and stoppage of unauthorized employee communications.

18. Upon failure of the Respondent to take corrective action, the Applicant, vide email dated 21.10.2025, reiterated its objections, including the involvement of Mr. Vivek Sharma and Mr. Devender Bardwaj in communications with CoC members, the initiation of voting during the Diwali holiday period, and the resulting prejudice to meaningful participation. The Applicant sought extension of the CoC voting period until Friday, 24.10.2025.

SUBMISSIONS OF THE RESPONDENT:

19. In response to the publication of 3 separate Form-G on 29.05.2025 in Financial Express (English) and Jansatta (Hindi) – Delhi NCR Edition, the Respondent received a total of 13 Expressions of Interest (EoI) under the following categories: (a) 13 projects along with the Company; (b) 12 projects, without Project Arrow, along with the Company; and (c) only Project Arrow without the Corporate Debtor.

20. After provisional verification of the documents submitted with the EoI along with the EMD, the Resolution Professional issued the provisional list of Prospective Resolution Applicants on 22.06.2025, which was presented in the 7th CoC meeting held on 27.06.2025. The Final List of Prospective Resolution Applicants was to be issued on 07.07.2025, as per the timeline mentioned in Form-G, Detailed EoI and/or draft RFRP. The successful Resolution Applicant

was required to deposit performance security of Rs. 2.50 Crores within seven days of issuance of the Letter of Intent, to remain deposited till final implementation of the Resolution Plan.

21. In the 8th CoC meeting held on 31.07.2025, the Resolution Professional apprised the CoC that the last date for submission of the Resolution Plan was 11.08.2025. The VDR link had been shared with the PRAs on 12.07.2025 containing the Information Memorandum, RFRP and relevant details/documents. The VDR was updated with additional information on 24.07.2025 and thereafter whenever new information was received, and additional information requested by the PRAs was uploaded from time to time.

22. In the 9th CoC meeting held on 13.08.2025, the Resolution Professional informed the CoC that two Resolution Plans had been received on 11.08.2025 from: (a) Consortium of AKB Ventures Private Limited & Sustainable Projects Private Limited; and (b) Consortium of Mr. Harpal Singh Chawla, Mr. Vipin Sharma, Mr. Bharat Bhushan Kumar and Mr. Deepak Kumar. The plans were password protected and were opened before the CoC and representatives of both PRAs. Both plans were legible and, upon preliminary due diligence, were found in accordance with the terms and conditions of the RFRP. The plans were also sent to M/s DGA IB Resolution LLP for due diligence.

23. In the 11th CoC meeting held on 03.10.2025, the RP apprised the CoC that two revised Resolution Plans had been received on 01.10.2025. The password-protected plans were opened in the presence of the respective PRA representatives. The Applicant's representative informed the CoC that one page of the Fund Flow Statement had inadvertently not been attached and

requested permission to submit the revised plan with the said statement, which was agreed to. Both Resolution Plans were thereafter opened before the CoC and the final due diligence was to be carried out and shared with the CoC.

24. In the 12th CoC meeting held on 15.10.2025, the RP presented both Resolution Plans and confirmed, upon detailed examination, that both plans were compliant with Section 30(2) of the Code. The Section 29A due diligence, comparison of final Resolution Plans and Evaluation Matrix scoring were also shared with the CoC, which, after deliberation, decided to put both plans to vote.

25. The Resolution Plan submitted by the Consortium of Mr. Harpal Singh Chawla, Mr. Vipin Sharma, Mr. Bharat Bhushan Kumar and Mr. Deepak Kumar was approved by the CoC with 96.42% voting share. The e-voting commenced on 19.10.2025 at 12:00 PM and concluded on 21.10.2025 at 06:00 PM. Pursuant thereto, the RP issued Letter of Intent dated 22.10.2025 to the SRA. The application under Section 30(6) read with Section 31(1), being IA(IBC)(Plan)/68/2025, seeking approval of the Resolution Plan, is pending adjudication.

26. The present application is a second attempt by the same Applicants to stall the CIRP, as I.A. No. 4728/2025 had earlier been filed on nearly identical grounds.

27. The Applicants have failed to provide proof that the RP issued directions or permitted any such conduct. Mr. Devender Bhardwaj and Mr. Vivek Sharma are employees of the Corporate Debtor and are not employees, associates or

representatives of the RP; the RP neither appointed nor authorised them to act on his behalf. Upon receipt of an email from homebuyer Dr. Rajeev Ahuja, the RP immediately clarified vide email dated 20.10.2025 that all staff belonged to the Corporate Debtor and that forwarding such messages was "not in the right spirit". The communications relied upon by the Applicants therefore establish that the RP disapproved of such conduct and did not turn a blind eye.

28. The grievance regarding withholding of information is belied by the Applicants' own correspondence. Emails dated 02.08.2025, 05.08.2025, 06.08.2025 and 22.09.2025 record detailed clarifications by the RP's team. The Applicants' representatives also visited the RP's office on 04.08.2025 and project sites on 11.08.2025 and acknowledged satisfaction with the data made available. The RP complied with Section 25(2)(g) and Regulation 36(2), ensuring equal access to the VDR for all PRAs.

29. The 12th CoC meeting held on 15.10.2025 deliberated on both Resolution Plans, considering comparative scoring as per the Evaluation Matrix, financial capability of the RAs, project completion timelines and benefits to stakeholders, especially homebuyers. The voting was conducted transparently through an independent electronic platform from 19.10.2025 to 21.10.2025 in the presence of the Authorised Representative. No objection was raised by any CoC member or homebuyer during or after the voting.

30. The Applicants, being unsuccessful PRAs, lack locus to challenge the CoC's commercial decision. Reliance is placed on ArcelorMittal India Pvt. Ltd. v. Satish Gupta (2019) 2 SCC 1, wherein it was held that participation in the

process does not confer a right to question the CoC's decision unless there is proven fraud or illegality. In the absence of any illegality or fraud on the part of the RP, the allegations are not maintainable. The CIRP period is nearing completion and repeated applications would jeopardize the time-bound objective of the Code and cause prejudice to stakeholders, including thousands of homebuyers awaiting completion of their units.

31. Access to the VDR was provided to all PRAs simultaneously on 12.07.2025 and continuously updated as new information became available. Additional documents requested by the Applicant were uploaded subject to verification of authenticity and confidentiality obligations. Vide emails dated 06.09.2025 and 22.09.2025, the RP provided the required documents and clarifications, and vide emails dated 26.09.2025 and 27.09.2025, further responded to the Applicant's queries and requested submission of the final Resolution Plan. The Applicant was again updated with information on 01.10.2025.

32. Both Resolution Plans were opened only in the presence of CoC members and representatives of the respective PRAs. The process adopted by the RP was ratified by the CoC in its 7th, 9th, 10th and 11th meetings and all steps were documented in the minutes. The RP maintained confidentiality of the Resolution Plans in terms of Regulation 36A(6) and ensured that no PRA obtained an advantage over another. The CoC independently approved the procedural framework and the RP acted with professional diligence, neutrality and transparency.

33. The Applicants' allegations are stated to be baseless, repetitive and intended to delay approval of the Resolution Plan.

FURTHER SUBMISSIONS OF THE APPLICANT:

34. The "Active" employee list uploaded by the RP itself identifies Mr. Vivek Sharma (VP-Commercial) and Mr. Devender Bhardwaj (Sr. Manager-Leasing) as active employees, who, under Sections 17(1)(b), 23(2) and 25(1) of the Code, function under the RP's control and superintendence. The email dated 09.08.2025 further shows that the RP specifically designated Mr. Devender Bhardwaj to interface with the Applicant and conduct site visits, thereby authorising him to act in connection with the CIRP. Despite admitting that the canvassing activities were "not in the right spirit", the RP took no punitive or corrective action and continued to retain the said employees in their positions and pay their salaries from CIRP costs. The Applicant alleges that Respondent Nos. 2 and 3 actively contacted CoC members and canvassed votes for the Consortium of Ex-Promoters, as evidenced by the WhatsApp messages forming part of Annexure-6, which allegedly violates Section 208(2)(a), the Code of Conduct and Clause 3.1.3(g) of the RFRP. Such conduct, according to the Applicant, also falls within the "undesirable practice" under Clause 10.3.5 of the RFRP and warrants disqualification of the Consortium of Ex-Promoters as the SRA.

35. The RP failed to provide complete and authentic information and due diligence documents in a timely manner, with belated and piecemeal uploads allegedly creating an uneven playing field in favour of the competing SRA, which had historical access to the Corporate Debtor's records. The Applicant also challenges the e-voting process conducted from 19.10.2025 to 21.10.2025, contending that it coincided with national holidays and that the RP arbitrarily

declined the requested extension till 24.10.2025, thereby prejudicing the ability of Financial Creditors/Homebuyers to take a considered decision.

ANALYSIS AND FINDINGS:

36. We have heard the learned Counsel appearing for the Applicants and the Respondent and have perused the pleadings and documents placed on record.

37. At the outset, it is noted that the present Application has been filed under Section 60(5) of the Code seeking, inter alia, declaration that the voting process conducted between 19.10.2025 and 21.10.2025 is null and void, removal of the Resolution Professional, appointment of a new Resolution Professional, investigation into the conduct of the Resolution Professional and his alleged associates, and initiation of a fresh voting process. The principal grievance of the Applicants relates to alleged withholding of information, alleged canvassing by employees of the Corporate Debtor, alleged circulation of two different compliance reports and the timing and conduct of the e-voting process.

38. It is relevant to note that pursuant to the voting, the Resolution Plan submitted by the consortium comprising Mr. Harpal Singh Chawla, Mr. Vipin Sharma, Mr. Bharat Bhushan Kumar and Mr. Deepak Kumar was approved by the Committee of Creditors with 96.42% voting share and the Resolution Professional issued the Letter of Intent dated 22.10.2025. The application for approval of the Resolution Plan under Section 30(6) read with Section 31(1) of the Code, being IA(IBC)(Plan)/68/2025, is pending adjudication before this Adjudicating Authority.

39. At the same time, merely because the voting process has concluded would not, by itself, preclude examination of an allegation of a material illegality or procedural irregularity which, if established, could have affected the validity of the process. Therefore, we have considered the allegations raised by the Applicants on merits to ascertain whether any such illegality or irregularity has been established warranting interference by this Adjudicating Authority.

40. The first allegation of the Applicants concerns alleged collusion and bias on the part of the Resolution Professional in favour of the consortium comprising the ex-directors of the Corporate Debtor. The Applicants rely principally upon certain communications allegedly made by Mr. Devender Bhardwaj and Mr. Vivek Sharma to members of the CoC/Homebuyers for canvassing support in favour of the competing Resolution Plan. The Applicants contend that since these persons were employees of the Corporate Debtor and were functioning during the CIRP under the control and supervision of the Resolution Professional, their alleged conduct is attributable to the Resolution Professional.

41. In this regard, the Respondent has specifically stated that Mr. Devender Bhardwaj and Mr. Vivek Sharma are employees of the Corporate Debtor and were neither employees nor representatives of the Resolution Professional. It has further been stated that the Resolution Professional had neither appointed nor authorised them to canvass or communicate with members of the CoC in relation to voting on the Resolution Plans. The correspondence placed on record further indicates that when the communication concerning

the alleged forwarding of messages was brought to the notice of the Resolution Professional, he clarified that such conduct was not in the right spirit.

42. The mere fact that the employees of the Corporate Debtor continued to work during the CIRP and were subject to the supervision of the Resolution Professional cannot, in itself, lead to an inference that every act allegedly committed by such employees was authorised by or undertaken at the instance of the Resolution Professional. The Applicants were required to establish a specific nexus between the alleged communications and the Resolution Professional or demonstrate that the Resolution Professional had expressly or impliedly authorised, directed or knowingly permitted such conduct with a view to influencing the CoC. No such material has been brought on record.

43. The Applicants have relied upon the fact that Mr. Devender Bhardwaj had been designated by the Resolution Professional to interface with the Applicant and conduct site visits. However, such designation, by itself, cannot be construed as authorisation to canvass votes or influence members of the CoC in favour of any particular Resolution Plan. The functions performed by an employee of the Corporate Debtor for facilitating the CIRP cannot automatically be equated with participation in the decision-making process of the CoC.

44. Further, the material relied upon by the Applicants, even if taken at its highest, establishes at best that certain communications were allegedly made by employees of the Corporate Debtor. It does not establish that the Resolution Professional directed or participated in such communications or

that the CoC was in fact influenced by the same. The allegation of collusion is a serious allegation and cannot be sustained merely on the basis of inference or suspicion in the absence of cogent material demonstrating such collusion.

45. The Applicants have also alleged that the Resolution Professional failed to take punitive or corrective action against the said employees. However, the correspondence relied upon by the Applicants itself shows that the Resolution Professional, upon the issue being brought to his notice, stated that forwarding of such messages was "not in the right spirit". The question whether any further disciplinary action was warranted against an employee of the Corporate Debtor does not, in the absence of proof of participation or authorisation by the Resolution Professional, establish that the entire CIRP or the voting process stood vitiated.

46. The next and principal grievance of the Applicants is that there was gross information asymmetry and deliberate withholding of information by the Resolution Professional, thereby placing the Applicants at a disadvantage vis-à-vis the competing Resolution Applicant. The Applicants have referred to various requests for Tally data/Trial Balance, project-wise pending work, bifurcation of claims, BBA copies, details of unsold units and discrepancies between the Information Memorandum and the RERA website.

47. There is no dispute with the proposition that the CIRP framework contemplates a transparent and competitive process and that relevant information is required to be made available to eligible prospective resolution applicants.

48. However, the question before us is whether the alleged deficiencies were of such nature and magnitude as to establish that the Applicant was denied a fair opportunity to formulate and submit its Resolution Plan.

49. From the submissions placed on record, it is evident that the VDR was made available to the PRAs on 12.07.2025 and was subsequently updated with additional information. The Respondent has referred to the communications dated 02.08.2025, 05.08.2025, 06.08.2025, 06.09.2025, 22.09.2025, 26.09.2025, 27.09.2025 and 01.10.2025 whereby the queries raised by the Applicant were addressed and further information was furnished. The Applicants were also permitted to undertake site visits and interact with the concerned personnel.

50. Significantly, despite alleging that material information had been deliberately withheld and that a level playing field had been destroyed, the Applicant proceeded to submit its Resolution Plan on 11.08.2025 and thereafter a revised Resolution Plan on 01.10.2025. The revised Resolution Plan was opened before the CoC in the presence of the representatives of the concerned PRAs. The material placed before us does not establish that the Applicant was prevented from submitting a Resolution Plan or that it was denied an opportunity to revise its proposal on account of any deliberate withholding of information by the Resolution Professional.

51. The allegation that the competing Resolution Applicant, being associated with the erstwhile management, possessed greater historical knowledge of the affairs of the Corporate Debtor also does not, by itself, establish an illegality on the part of the Resolution Professional. Such an applicant's previous

association with the Corporate Debtor may give rise to a separate question concerning its eligibility under Section 29A of the Code or the permissibility of its participation in the resolution process. However, such statutory eligibility is required to be assessed in accordance with the Code and is distinct from the question whether the Applicant before us was denied equal access to the VDR.

52. The Applicants have further relied upon the alleged circulation of two different compliance reports. According to the Applicants, one report indicated that their Resolution Plan was compliant, whereas another report circulated to the CoC declared the plan non-compliant in respect of a particular requirement. The Applicants contend that this violated natural justice and Regulation 39(3) of the CIRP Regulations. The Applicants have failed to substantiate this allegation by any documentary proof.

53. From the Respondent's submissions, however, it is apparent that both Resolution Plans were considered by the CoC and that, in its meeting held on 15.10.2025, the Resolution Professional presented the Resolution Plans and confirmed their compliance with Section 30(2) of the Code. The Section 29A due diligence, comparative evaluation and scoring were also placed before the CoC, following which the CoC deliberated upon both Resolution Plans and decided to put them to vote.

54. The Applicants have not placed sufficient material before this Adjudicating Authority to establish that any alleged discrepancy in the compliance report materially altered the rights of the Applicants or resulted in the CoC voting on the basis of a false or deliberately manipulated document. Equally, no

material has been placed to establish that the Applicants were denied an opportunity to address a substantive defect which was ultimately relied upon to reject their plan. In the absence of such material, the allegation of violation of audi alteram partem cannot be accepted merely on the basis of an asserted difference between two communications.

55. It is also relevant that the CoC is not a passive recipient of the RP's assessment. The CoC considered both Resolution Plans, the comparative Evaluation Matrix, the financial capability of the Resolution Applicants, project completion timelines and the benefits proposed for stakeholders. The decision to put both Resolution Plans to vote was thus taken after consideration at the CoC level.

56. The Applicants have also challenged the e-voting process on the ground that the voting period from 19.10.2025 to 21.10.2025 coincided with the Diwali holiday period and that several creditors were consequently unable to participate. We are unable to accept that the mere coincidence of an e-voting period with a public holiday, without proof of a statutory violation or actual material prejudice to the voting rights of the CoC, is sufficient to invalidate the voting process.

57. The Applicants have referred to the cases of Mr. Vinod Jangra and Mr. Sunil Jawa, who allegedly faced difficulties in receiving the voting credentials. Individual instances of non-receipt or transmission of credentials may certainly warrant examination by the RP/Authorised Representative; however, to invalidate an entire CoC voting process, it must be demonstrated that the voting mechanism was fundamentally defective or that eligible

creditors were materially and systematically prevented from exercising their voting rights.

58. In the present case, the Respondent has stated that the voting was conducted through an independent electronic platform from 19.10.2025 to 21.10.2025 in the presence of the Authorised Representative. No material has been placed before us demonstrating that the alleged individual instances resulted in the exclusion of a voting share sufficient to affect the outcome of the voting. More importantly, the Resolution Plan was approved with 96.42% voting share. The Applicants have not established that the alleged difficulties in accessing the voting process materially affected the statutory threshold or the result.

59. The Applicants have sought to characterise the entire voting process as "void ab initio". Such a conclusion cannot be drawn merely from allegations of procedural inconvenience or isolated instances of communication issues. The material on record does not demonstrate any fundamental defect in the constitution or functioning of the CoC, nor any established manipulation of the e-voting mechanism.

60. The Applicants, being one of the two Resolution Applicants, have also questioned the decision of the CoC to approve the competing Resolution Plan. In this regard, the scope of judicial interference with the commercial decision of the CoC is well settled. The Supreme Court has repeatedly held that the feasibility and viability of a Resolution Plan and the comparative assessment of competing plans fall within the commercial wisdom of the CoC, and that such decision-making cannot ordinarily be substituted by the Adjudicating Authority.

61. The aforesaid principle, however, does not mean that an established fraud or illegality is immune from scrutiny. The Applicants were therefore required to establish that the CoC's decision was procured through a demonstrated illegality attributable to the Resolution Professional or that the process adopted was fundamentally contrary to the Code. As discussed hereinabove, the allegations of collusion, information asymmetry, canvassing and manipulation have not been established by cogent material.

62. We also find considerable force in the submission of the Respondent that the Applicants cannot seek, through the present Application, a fresh voting process merely because their Resolution Plan was not approved. Participation as a prospective resolution applicant does not confer an entitlement to have one's Resolution Plan accepted or to require the CoC to reconsider its commercial decision merely because the Applicant is dissatisfied with the outcome. The Supreme Court has consistently recognised the primacy of the CoC's commercial wisdom in choosing between competing Resolution Plans.

63. The allegation regarding the competing Resolution Applicant being a consortium of persons associated with the erstwhile management also does not, in the facts presently before us, warrant setting aside the voting process. The question of eligibility under Section 29A is a statutory question which is required to be examined in accordance with the Code and forms part of the scrutiny of the Resolution Plan. The mere allegation by a competing PRA that the other Resolution Applicant is ineligible cannot, by itself, be treated as proof of ineligibility or collusion.

64. In any event, the Resolution Plan approved by the CoC has already been placed before this Adjudicating Authority for consideration under Section 30(6) read with Section 31 of the Code. The statutory scrutiny at that stage is distinct from the present challenge raised by an unsuccessful Resolution Applicant to the commercial decision of the CoC.

65. The prayer for removal of the Resolution Professional and appointment of a new Resolution Professional also cannot be granted merely on the basis of the allegations made by the Applicants. Removal of an RP is a serious measure and must be founded upon established circumstances demonstrating such conduct or incapacity as would warrant interference with the continuation of the RP. In the present case, no such circumstance has been established.

66. The prayer seeking supply of pending information and clarifications also does not survive in the manner sought by the Applicants. The Applicant has already participated in the resolution process, submitted its Resolution Plan and revised Resolution Plan, and the CoC has considered the competing Resolution Plans. A direction for fresh disclosure at this stage, coupled with reopening of the voting process, would effectively require the CIRP to be taken back to a stage which has already been completed without the Applicants establishing any foundational illegality in the process.

67. We are also conscious of the time-bound nature of the insolvency resolution process. In the present case, the CoC has already deliberated upon the Resolution Plans and approved one of them by an overwhelming majority of 96.42% voting share. The Resolution Plan is now pending consideration of this Adjudicating Authority.

68. In view of the foregoing discussion, we find that the Applicants have not established any material illegality, fraud, collusion or procedural irregularity of such magnitude as would warrant setting aside the concluded voting process or directing a fresh voting process.

69. Accordingly, I.A. 5202/ND/2025 is **dismissed.**

No order as to costs.

-SD/-

ATUL CHATURVEDI
MEMBER (TECHNICAL)

-SD/-

MAHENDRA KHANDELWAL
MEMBER (JUDICIAL)