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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 381/2024 & CM APPL. 28239/2024, CM APPL. 28240/2024
CM APPL. 28241/2024, CM APPL. 28242/2024

POOJA MENGHANI

..... Appellant

Through: Mr. Viraj R. Datar, Sr. Adv. with Mr.
Vishal Ganda, Mr. Saurav Joon, Mr.
Srikant Singh and Ms. Swati, Advs.

versus

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (IBBI) &
ANR.

..... Respondents

Through: Mr. Asheesh jain, CGSC with Mr.
Keshav Sehgal GP, Advocates

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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13.05.2024

1. Present appeal has been filed challenging the order dated 20th November, 2023 passed by the learned Single Judge in W.P. (C) 8696/2022, whereby the learned Single Judge dismissed the petition and refused to interfere with the order dated 2nd May, 2022 passed by the Respondent No. 1/ IBBI and held that although the Appellant is eligible for consideration as Insolvency Professional (IP), the Respondent No. 1/ IBBI had the discretion to reject her application by citing “*fit and proper person*” as the reason.

2. At the outset, learned counsel for the respondent states that the present appeal is not maintainable as the petitioner had challenged the very same



impugned order before the Supreme Court by way of SLP (C) No(s). 4894/2024. He points out that the said SLP had been dismissed as withdrawn unconditionally. The order dated 11th March, 2024, passed by the Supreme Court is reproduced hereinbelow:

- “1. After arguing for sometime, learned counsel appearing for the petitioner(s) seeks permission to withdraw the present Special Leave Petition.
2. Permission as sought for is granted.
3. The Special Leave Petition is dismissed as withdrawn.”

3. In view of the unconditional withdrawal of the SLP, this Court is of the view that the present appeal is not maintainable as it is barred on the principle of constructive *res judicata*. (See: ***Sarguja Transport Service vs. State Transport Appellate Tribunal, M.P., Gwalior and Others, (1987) 1 SCC 5***)

4. Accordingly, the same is dismissed.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

MAY 13, 2024

N.Khanna