



2025:AHC:161722

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Reserved – 02/09/2025

Delivered – 12/09/2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 11291 of 2025

Rohit Dahiya

.....Petitioner(s)

Versus

Union of India and 3 others

.....Respondent(s)

Counsel for Petitioner(s) : Devansh Misra

Counsel for Respondent(s) : A.S.G.I.,
Anadi Krishna Narayana,
Ashok Kumar Lal

Court No. - 5

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Heard Sri Devansh Misra, learned counsel for petitioner and Sri V.K. Singh, learned Senior Advocate assisted by Sri A.K. Lal, learned counsel for respondents – Bank.

2. The petitioner while working as Branch Head at Maswasi Town Branch and subsequently at Rahmatganj Branch in District Rampur, Moradabad Region has faced an allegation that while working as Branch Head in above referred branches between 04.10.2021 and 06.02.2024, suspicious activities were observed in the accounts of customers and accordingly, he was served with a show cause notice dated 29.04.2025.

3. Petitioner submitted his reply on 12.05.2024 and a final order dated 04.06.2025 was passed by Chairperson of Zonal Office Committee for Classification of Fraud (ZOCCF) and accounts referred in show cause notice were declared as fraudulent under the category of misappropriation of funds and criminal breach of trust and unauthorized transactions.

4. Aforesaid order was challenged at the behest of petitioner by way of filing a Writ A No. 8536/2025 and since during hearing, decision of ZOCCF dated 04.06.2025 was provided, therefore, writ petition was disposed of with following observations vide order dated 02.07.2025 :-

“15. As referred above, on basis of a complaint in terms of Master Direction on Fraud, a notice was issued to petitioner on above referred serious allegations of fraud. It is also not disputed that petitioner has submitted a detailed reply to it and according to procedure prescribed, matter was considered by ZOCCF though undisputedly its report and decision dated 04.06.2025 was not communicated to petitioner and only legal consequence of it was communicated to petitioner by impugned order wherein a recommendation to declare action of the petitioner as “Fraudulent” was made.

16. Court is of considered view that said report of ZOCCF ought to have been served upon petitioner so that petitioner may take a legal remedy against said report. Court is also of the view that if ZOCCF has taken a decision and made a recommendation and was communicated by impugned order, all procedure prescribed in Master Direction are substantially complied with.

17. This case could be disposed of with a direction to respondents to supply a copy of report of ZOCCF to petitioner with liberty to take a legal remedy if so advised, however, Court takes note of subsequent undisputed events that CBI has taken note of complaint against petitioner and others and an FIR has

already been lodged on 24.06.2025 against petitioner and others under Section 61(2) and 318 of B.N.S. and 13(2) r/w 13(1)(a) of P.C. Act and from reading of contents thereof, report of ZOCCF does not appear to be only reason to lodge FIR as well as CBI is under a legal obligation to conduct independent investigation, therefore, without interfering with impugned order, which has still not acted upon i.e. no penal or civil action is taken, therefore, this writ petition is disposed of with an observation that respondent-bank will provide report of ZOCCF to petitioner and further CBI will conduct independent and fair investigation without being much influenced by the report of ZOCCF."

5. The petitioner has challenged the aforesaid order by way of filing Special Appeal No. 670/2025 wherein decision of ZOCCF was also challenged. The Special Appeal was disposed of vide order dated 23.07.2025 and relevant part thereof is mentioned below :-

"8. Sri Devansh Misra, learned counsel for the appellant submitted that under Clause 2.1.1.4 of Master Direction of RBI it is specifically provided that reasoned order shall be served on the person charged of committing fraud. He submits that the impugned communication does not contain any reason. He further submits that a copy of the decision taken by ZOCCF was provided to him during course of hearing of the writ petition and, therefore, same is also under challenge in the instant appeal.

9. Sri V.K. Singh, learned senior counsel appearing for the respondent-Bank on the other hand submits that the decision of ZOCCF was not subject matter of challenge in the writ petition and writ Court has left it open to the appellant to avail appropriate remedy against the same. However, he fairly concedes that the observation in the order of learned Single Judge that there was substantial compliance of Master Directions in RBI Circular is likely to influence any challenge made to the decision of ZOCCF, in respect of which liberty was granted to avail appropriate

remedy. He, therefore, has no objection in case the said aspect is clarified.

10. Since the decision of ZOCCF was not subject matter of challenge in the writ petition but has been challenged for the first time in the present intra-court appeal, therefore, we are not inclined to examine its validity particularly when writ court has granted liberty to the petitioner to avail appropriate remedy against the same. However, it is clarified that in case any remedy is availed by the petitioner against the decision of ZOCCF and subsequent actions, the concerned court/ authority will decide the challenge without being influenced by any observation made in the impugned order dated 2.7.2025 by learned Single Judge.”

6. In aforesaid circumstances, present writ petition is filed wherein decision of ZOCCF dated 04.06.2025 is challenged.

7. Learned Senior Advocate appearing for respondent-Bank has made preliminary objection that present second writ petition is barred by principles of *res-judicata*. During proceedings of first writ petition, decision of ZOCCF dated 04.06.2025 was provided, however, petitioner has not taken proper remedy at that stage and instead of it, he approached the Division Bench of this Court, however, Court is of the view that since Division Bench has passed order dated 23.07.2025 in presence of learned counsel for rival parties wherein an opportunity was granted to petitioner to avail legally permissible remedy to challenge the decision of ZOCCF as well as in earlier round of litigation, decision of ZOCCF was not considered, therefore, preliminary objection is rejected and matter is heard finally on merit.

8. Learned counsel for petitioner has submitted that a very detailed reply was submitted to show cause notice, however, in a very cursory manner, same was rejected by the impugned

decision. The impugned decision of ZOCCF has referred about 2 internal investigation reports, the first report submitted by Sri Ravi Pal, Chief Manager, Z.I.A.D., Bareilly dated 18.07.2024 and second report submitted by Trivendra Saran, Chief Manager, Dedicated Investigating Officer, ZO-Bareilly vide order dated 10.10.2024 and findings thereof are referred in impugned order as ‘major findings’ i.e. said findings were basis to pass order against petitioner, however, said reports were not provided to him, therefore, principles of natural justice were not substantially followed.

9. In this regard, learned counsel for petitioner has placed reliance upon a judgment passed by Supreme Court in **Satyendra Singh vs. State of U.P. and others, 2024:INSC:873** that evidence recorded in preliminary inquiry may not be used for regular inquiry if the delinquent was not associated with it and it would be considered as an ex-parte inquiry.

10. Learned counsel has also placed reliance upon **State Bank of India and others vs. Rajesh Agarwal and others, (2023) 6 SCC 1** and has referred conclusion part of said judgment :-

“98.1. No opportunity of being heard is required before an FIR is lodged and registered.

98.2. Classification of an account as fraud not only results in reporting the crime to the investigating agencies, but also has other penal and civil consequences against the borrowers.

98.3. Debarring the borrowers from accessing institutional finance under Clause 8.12.1 of the Master Directions on Frauds results in serious civil consequences for the borrower.

98.4. Such a debarment under Clause 8.12.1 of the Master Directions on Frauds is akin to

blacklisting the borrowers for being untrustworthy and unworthy of credit by banks. This Court has consistently held that an opportunity of hearing ought to be provided before a person is blacklisted.

98.5. The application of audi alteram partem cannot be impliedly excluded under the Master Directions on Frauds. In view of the time-frame contemplated under the Master Directions on Frauds as well as the nature of the procedure adopted, it is reasonably practicable for the lender banks to provide an opportunity of a hearing to the borrowers before classifying their account as fraud.

98.6. The principles of natural justice demand that the borrowers must be served a notice, given an opportunity to explain the conclusions of the forensic audit report, and be allowed to represent by the banks/JLF before their account is classified as fraud under the Master Directions on Frauds. In addition, the decision classifying the borrower's account as fraudulent must be made by a reasoned order.

98.7. Since the Master Directions on Frauds do not expressly provide an opportunity of hearing to the borrowers before classifying their account as fraud, audi alteram partem has to be read into the provisions of the directions to save them from the vice of arbitrariness."

11. Learned counsel has also referred reply filed against show cause notice that every allegation was substantially replied, still impugned order was passed.

12. Learned counsel has also referred Master Directions of Fraud and Risk Management in Commercial Banks (including Regional and Rural Banks) and All India Financial Institutions dated 15.07.2024 issued by Reserve Bank of India and procedure prescribed therein is reproduced hereinafter :-

"2.1.1 There shall be a Board approved Policy on fraud risk management delineating roles and responsibilities of Board / Board

Committees and Senior Management of the bank. The Policy shall also incorporate measures for ensuring compliance with principles of natural justice in a time-bound manner which at a minimum shall include:

2.1.1.1 Issuance of a detailed Show Cause Notice (SCN) to the Persons, Entities and its Promoters / Whole-time and Executive Directors against whom allegation of fraud is being examined. The SCN shall provide complete details of transactions / actions / events basis which declaration and reporting of a fraud is being contemplated under these Directions.

2.1.1.2 A reasonable time of not less than 21 days shall be provided to the Persons / Entities on whom the SCN was served to respond to the said SCN.

2.1.1.3. Banks shall have a well laid out system for issuance of SCN and examination of the responses / submissions made by the Persons / Entities prior to declaring such Persons / Entities as fraudulent.

2.1.1.4 A reasoned Order shall be served on the Persons / Entities conveying the decision of the bank regarding declaration / classification of the account as fraud or otherwise. Such Order(s) must contain relevant facts / circumstances relied upon, the submission made against the SCN and the reasons for classification as fraud or otherwise.

2.1.2 The Fraud Risk Management Policy shall be reviewed by the Board at least once in three years, or more frequently, as may be prescribed by the Board."

13. Per contra, learned Senior Counsel for respondent – Bank has also placed reliance on aforesaid provisions of Master Directions (supra) as well as Fraud Risk Management Policy 2025 issued by Bank of Baroda on basis of directions made in Master Directions and referred its objective which are mentioned below :-

“2. Objective:

To have an effective Fraud Risk Management Framework aligned with the business objective of the Bank with a strong and sustained focus on prevention of frauds.

To have a proactive and effective fraud-control mechanism for further strengthening of internal controls, systems, procedures, and products.

To have a framework for timely detection and reporting of fraud cases in line with regulatory expectations.

To have a prompt reporting mechanism.

To have a system of robust EWS (Early Warning Signal).

6. Categorisation of Fraud:

To have uniformity and consistency while reporting incidents of fraud to RBI through Fraud Monitoring Returns (FMRs) using online portal, frauds are required to be categorised as under as per the Master Directions of RBI:

i. Misappropriation of funds and criminal breach of trust

ii. Fraudulent encashment through forged instruments

iii. Manipulation of books of accounts or through fictitious accounts, and conversion of property

iv. Cheating by concealment of facts with the intention to deceive any person and cheating by impersonation

v. Forgery with the intention to commit fraud by making any false documents/ electronic records

vi. Willful falsification, destruction, alteration, mutilations of any book, electronic record, paper, writing, valuable security or account with intent to defraud

vii. Fraudulent credit facilities extended for illegal gratification

viii. Cash shortages on account of frauds

ix. Fraudulent transactions involving foreign exchange

X. Fraudulent electronic banking/ digital payment related transactions committed on banks; and

xi. Other type of fraudulent activity not covered under any of the above.

9 Declaration of Fraud:

The Bank shall ensure that the principles of natural justice are strictly adhered to before classifying/ declaring an account as fraud in all cases (non-credit as well as credit related fraud irrespective of Banking arrangement-Sole lending, multiple banking arrangement or consortium lending).

The Bank shall report payment system related disputed/ suspected or attempted fraudulent transactions to Central Payments Fraud Information Registry (CPFIR), maintained by RBI. However, such transactions, if subsequently concluded as fraud committed on the Bank, shall invariably be reported through FMR so as to be reflected in CFR."

14. Learned Senior Counsel for respondent – Bank has submitted that procedure prescribed in Master Directions as well as Policy of 2025 issued by Bank of Baroda were strictly followed. In present inquiry, it cannot be equated with disciplinary inquiry. Investigation reports was conducted by the Bank for purpose of ascertain whether there was a fraud or not. In said investigation process, the petitioner was not required to participate. The petitioner was issued a show cause notice dated 29.04.2025 wherein on basis of said reports, instances of fraud were communicated. The petitioner's reply was considered by ZOCCF and their remarks are part of impugned order in a tabular form, therefore, principles of natural justice were substantially followed.

15. Learned Senior Advocate has also submitted that in normal circumstances, declaration of fraud is to be communicated to

Police Authorities for prosecution, however, in present case, CBI has also taken suo-moto action, therefore, in a way the outcome of proceedings has no adverse effect on petitioner as he is facing multiple FIRs and for that he has also taken legal remedy.

16. I have considered the submissions of learned counsel for rival parties and perused the records.

17. Object of classification of fraud and Reporting by the Commercial Banks through the Master Directions of Fraud issued by RBI was considered by the Supreme Court in **State Bank of India vs. Rajesh Agarwal** (supra) and relevant paragraphs of it are quoted below :-

“19. RBI has been issuing “master directions” on diverse issues since 2016. These directions encompass the instructions on that particular subject. The master directions are updated whenever there is a change in policy, and such changes get reflected on RBI's website. In exercise of the power conferred by Section 35-A, RBI issued the Master Directions on Frauds on 1-7-2016 to consolidate and update seven earlier circulars on classification of fraud, reporting and monitoring issued between June 2009 and January 2016. The Master Directions on Frauds were updated on 3-7-2017.

20. The purpose of the Master Directions is extracted below:

“1.3. Purpose

These directions are issued with a view to providing a framework to banks to enable them to detect and report frauds early and taking timely consequent actions like reporting to the investigative agencies so that fraudsters are brought to book early, examining staff accountability and do effective fraud risk management. These directions also aim to enable faster dissemination of information by the Reserve Bank of India (RBI) to banks on the details of frauds, unscrupulous borrowers and related parties, based on the banks'

reporting so that necessary safeguards/preventive measures by way of appropriate procedures and internal checks may be introduced and caution exercised while dealing with such parties by banks."

21. The above directions were issued to achieve specific purposes : (i) early and timely detection and reporting of fraud; (ii) early and timely reporting of fraud to investigative agencies; (iii) quicker dissemination of information pertaining to details of fraud and fraudulent borrowers to banks; and (iv) to facilitate the adoption of preventive measures by banks. These purposes are reflected in Clause 2.1.1 of the Master Directions on Frauds:

"Clause 2.1.1 The Chairmen and Managing Directors/Chief Executive Officers (CMD/CEOs) of banks must provide focus on the "Fraud Prevention and Management Function" to enable, among others, effective investigation of fraud cases and prompt as well as accurate reporting to appropriate regulatory and law-enforcement authorities including Reserve Bank of India."

(emphasis supplied)

22. Clause 2.2.1 classifies frauds based on the provisions of the Penal Code, 1860:

"Clause 2.2.1 In order to have uniformity in reporting, frauds have been classified as under, based mainly on the provisions of the Indian Penal Code:

(a) Misappropriation and criminal breach of trust

(b) Fraudulent encashment through forged instruments, manipulation of books of account or through fictitious accounts and conversion of property.

(c) Unauthorised credit facilities extended for reward or for illegal gratification

(d) Cash shortages.

(e) Cheating and forgery

(f) Fraudulent transactions involving foreign exchange

(g) Any other type of fraud not coming under the specific heads as above."

23. Clause 3 advises banks to make full use of the Central Fraud Registry ("CFR") (a database created by RBI to enable banks to share information on fraudulent accounts) for timely identification, control, reporting, and mitigation of risks associated with fraud. Clause 3.3 of the said directions emphasises the need to provide timely information on frauds and penalises banks for non-adherence to timelines:

"3.3.1. Banks should ensure that the reporting system is suitably streamlined so that delays in reporting of frauds, submission of delayed and incomplete fraud reports are avoided. Banks must fix staff accountability in respect of delays in reporting fraud cases to RBI.

3.3.2. Delay in reporting of frauds and the consequent delay in alerting other banks about the modus operandi and dissemination of information through Caution Advice/CFR against unscrupulous borrowers could result in similar frauds being perpetrated elsewhere. Banks should therefore, strictly adhere to the time-frame fixed in this circular for reporting of fraud cases to RBI failing which they would be liable for penal action prescribed under Section 47-A of the Banking Regulation Act, 1949."

(emphasis supplied)

24. The Master Directions on Frauds provides a regulatory framework for four types of frauds : (i) Chapter IV deals with attempted fraud; (ii) Chapter VII deals with cheque related frauds; (iii) Chapter VIII deals with loan frauds; and (iv) Chapter X deals with cases relating to theft, burglary, dacoity, and bank robberies. The dispute in the present batch of cases is concerned with Chapter VIII dealing with loan frauds.

25. Chapter VI states that as a general rule, cases involving fraud/embezzlement should invariably be referred to the State Police or CBI. Chapter VIII provides for more robust safeguards which ensure that banks report

frauds to investigating agencies after forming an informed opinion.”

18. In **SBI Vs. Rajesh Agarwal (supra)**, objective of framework was also taken note of and is summarized in its paragraph 27 which is also extracted below :-

“27. Clause 8.3 deals with Early Warning Signals (“EWS”) and Red-Flagged Accounts (“RFA”). Under Clause 8.3.1, an RFA is one where a suspicion of fraudulent activity is thrown up by the presence of one or more EWS. EWS which should alert bank officials about wrongdoings in a loan account are set out in Annexure II. Some of those enumerated are set out below:

27.1. (a) Default in undisputed payment to statutory bodies as declared in the annual report; (b) dishonour of high value cheques;

27.2. Delay in payment of outstanding dues;

27.3. Funds coming from other banks to liquidate the outstanding loan amount except in the normal course;

27.4. Exclusive collateral charged to a number of lenders without NOCs of existing charge holders;

27.5. Dispute on title to collateral securities; and

27.6. Critical issues in the stock audit report.”

19. Court also takes note of report of incident of fraud to RBI as provided in 6.1 of Master Directions and for reference, same is quoted below :-

“6.1 Reporting of Incidents of Fraud to Reserve Bank of India (RBI)

To ensure uniformity and consistency while reporting incidents of fraud to RBI through Fraud Monitoring Returns (FMRs) using online portal, banks shall choose the most

appropriate category from any one of the following:

- (i) Misappropriation of funds and criminal breach of trust;
- (ii) Fraudulent encashment through forged instruments;
- (iii) Manipulation of books of accounts or through fictitious accounts, and conversion of property;
- (iv) Cheating by concealment of facts with the intention to deceive any person and cheating by impersonation;
- (v) Forgery with the intention to commit fraud by making any false documents/electronic records;
- (vi) Wilful falsification, destruction, alteration, mutilations of any book, electronic record, paper, writing, valuable security or account with intent to defraud;
- (vii) Fraudulent credit facilities extended for illegal gratification;
- (viii) Cash shortages on account of frauds,
- (ix) Fraudulent transactions involving foreign exchange;
- (x) Fraudulent electronic banking / digital payment related transactions committed on banks, and
- (xi) Other type of fraudulent activity not covered under any of the above."

20. In **SBI Vs. Rajesh Agarwal (supra)**, Supreme Court was essentially considering the applicability of rule of *audi alterem partem* in case borrowers' action are classified as fraud and since in the Master Directions, there was no provision to hear them before declaring the actions as fraud, therefore, above referred directions were passed, whereas said Master Directions as well as Policy of 2025 of Bank of Baroda has already taken care of

principles of natural justice so far as employees are concerned and in present case, on basis of record that show cause notice was issued to petitioner to which the petitioner has submitted his reply and thereafter a reasoned order was passed wherein there was a consideration of reply of petitioner qua to allegations and observations of ZOCCF were made part of tabular chart, therefore, procedure as prescribed in Master Directions as well as Policy are substantially complied with as well as that impugned order of ZOCCF is a reasoned order. The purpose of inquiry is to inform the incident of fraud to RBI and not to punish the petitioner only on basis of said report.

21. Argument of learned counsel for petitioner that two investigation reports were not provided and despite they were the basis of impugned order, however, this Court finds that there is substance in argument of learned Senior Advocate for respondent – Bank that present inquiry cannot be equated with disciplinary proceedings. Process is to identify the fraud on basis of material and for that bank is at liberty to conduct investigation, however, outcome of it was confronted to the petitioner and reply was considered at length and thereafter observations of ZOCCF were made part of record, therefore, there is no illegality or irregularity in not providing two investigation reports to the petitioner.

22. Otherwise also, details of said reports are mentioned in impugned order, still, either in averments made in writ petition or during argument, nothing substantial was brought on record or submitted that findings were perverse, therefore, no prejudice was caused. It may be a case that on basis of a reply, there may

be possibility of two views but the Court while sitting in writ jurisdiction cannot consider it as an Appellate Court.

23. Otherwise also, after going through consideration of ZOCCF in a tabular form running into 24 pages wherein every objection of petitioner qua to allegations were dealt with which does not warrant any interference.

24. Court also takes note that CBI has already taken suo-moto proceedings against petitioner and in fact, respondent – Bank has not taken any adverse action against the petitioner on basis of reasoned decision of ZOCCF declaring action of the petitioner as fraudulent under category of misappropriation of funds and criminal breach of trust and unauthorized transactions.

25. On the basis of above discussion, no circumstance exists to cause interference with the impugned order. Accordingly, writ petition lacks merit, hence, **dismissed**.

[SAURABH SHYAM SHAMSHERY, J.]

Dt/- September 12, 2025

N. Sinha