

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION (L) NO. 1684 OF 2015**

Kingfisher Airlines Limited)
 a company incorporated)
 under the provisions of the)
 Companies Act, 1956)
 having its registered office at,)
 UB Tower, Level 12,)
 24 Vittal Mallya Road,)
 Bangalore - 560001) Petitioner.

V/s

1. Union of India)
 through the Secretary,)
 Ministry of Finance,)
 Government of India,)
 having its office at)
 Department of Financial)
 Services, Room No.9, Jeevan)
 Deep Building, Parliament)
 Street, New Delhi 110001)

2. State Bank of India,)
 having its head office at,)
 1st Floor, Corporate Centre)
 State Bank Bhawan,)
 Madam Cama Road,)
 Mumbai 400 021)

3. The Appropriate Committee)
 State Bank of India,)
 Stressed Assets Management)
 Group, Headed by the Deputy)

Managing Director, and)
 consisting of two other senior)
 officers of the rank of)
 GM/DGM and having its address)
 at 1st Floor, Corporate Centre,)
 State Bank Bhawan, Madam Cama)
 Road, Mumbai 400 021.)

4. United Breweries(Holdings))
 Limited company incorporated)
 under the provisions of the)
 Companies)
 Act, 1956 having its Registered)
 Office at, UB Tower, Level 12)
 UB City, 24 Vittal Mallya Road,)
 Bangalore 560 001.)

5. Dr. Vijay Mallya,)
 having an office at :)
 UB Tower, Level 12)
 UB City, 24 Vittal Mallya Road,)
 Bangalore 560 001.)

) Proforma Respondents.

Mr. Milind Sathe, Sr. Counsel with Mr. Rohan Cama i/b M/s. Bachubhai Munim and Co. for the Petitioner.

Mr. N.R. Prajapati for Respondent No.1.

Mr. P.K. Samdani, Sr. Counsel with Mr. Gaurav Joshi, Sr. Counsel and Mr. Vikash Kumar i/b Mr. Anil T. Agarwal for Respondent Nos. 2 and 3.

**CORAM: V. M. KANADE &
 B. P. COLABAWALLA, JJ.**

DATE: 15th July, 2015

JUDGMENT: (Per V.M. Kanade, J.)

1. Heard.
2. Rule. Rule is made returnable forthwith. Respondents waive service. By consent of parties, Petition is taken up for final hearing.
3. The short question which falls for consideration before us in this Writ Petition is : whether denial of legal representation of the Petitioner-Company through its advocate to appear before the Redressal Grievance Committee, amounts to denial of reasonable opportunity of defending itself and violation of principles of natural justice?

FACTS:

4. Brief facts which are germane for the purpose of deciding this Writ Petition are as under:-
5. Petitioner - Kingfisher Airlines Ltd. is a Company incorporated and registered under the provisions of the Companies Act, 1956. Respondent No.2 is a statutory body constituted under the State Bank of India Act, 1955 and also a Government Company and "State" within the meaning of Article 12 of the Constitution of India.

6. Reserve Bank of India ("RBI") issued a Circular on 01/07/2014 giving instructions and guidelines on matters relating to Wilful Defaulters. The Master Circular was addressed to all Scheduled Commercial Banks and All India Notified Financial Institutions.

7. The said Master Circular defined the meaning of the term "wilful default" and the terms "diversion of funds" and "siphoning of funds". It also provided for penal measures in para 2.5 and report to be submitted to RBI by Banks/Financial Institutions regarding Wilful Defaulters and the suits filed by them. Consequences of a person being Wilful Defaulter also have been enumerated in the said Circular. Mechanism for the purpose of identifying and reporting instances of Wilful Defaulters are mentioned in para 3. By virtue of the said para, grievance redressal mechanism was established and the Committee of higher Officers headed by Executive Director and consisting of two other Senior Officers of the rank of GM/DGM was to be constituted.

8. The Grievance Redressal Committee was to give a hearing to the borrower if a representation had been made that he was wrongly classified as Wilful Defaulter and thereafter decision would be taken by the Committee. Perusal of the said Master Circular dated 01/07/2014 reveals

that it does not provide a clause for giving an opportunity to the borrower to be represented by a legal representative.

9. This Circular was amended on 07/01/2015 and in para 3 on grievances redressal mechanism, it now provided that the Committee headed by Executive Director and consisting of two other Senior Officers of the rank of GM/DGM would scrutinize the evidence of wilful default on the part of the borrower company and if a Committee came to the conclusion that the borrower had committed wilful default, it would then issue a show cause notice to the concerned borrower and call for other submissions and thereafter pass an order whether the borrower was a Wilful Defaulter or not. Para 3(b) which has amended the mechanism as laid down in para 3 of the original circular mentioned that an opportunity would be given to the borrower for personal hearing, if the Committee felt that such an opportunity was necessary to be given.

10. In the present case, Petitioner received notice dated 19/08/2014 under the Master Circular dated 01/07/2014 informing the Petitioner that the appropriate Committee of Respondent No.2 had approved a purported proposal of Respondent No.2 Bank to include the names of the Petitioner and the proforma Respondents in the list of wilful defaulters as per the guidelines of RBI.

11. Petitioner then called upon Respondent No.2 to disclose and furnish copies of the documents, material, reports etc. which were referred to or relied upon by the appropriate Committee including the investigative Report of Ernst & Young dated 11/08/2014. Since the said report was not given, Petitioner filed Writ Petition No.2112 of 2014, seeking a direction to Respondent No.2 to give the concerned documents. This Court by its order dated 25/09/2014 directed Respondent No.2 to disclose all documents including the Report of Ernst and Young within a period of two weeks.

12. On 22/10/2014, Petitioner submitted their representation, requesting Respondent No.2 to permit the Petitioner to appoint an advocate of its choice to represent the Petitioner at the hearing before the Grievance Redressal Committee. This request was turned down by Respondent No.2 by its letter dated 10/11/2014. Petitioner, thereafter, filed a Writ Petition in this Court being Writ Petition (Lodging) No.2951 of 2014. When the matter came up for hearing before Division Bench of this Court, Respondent No.2 gave an oral undertaking that the Bank would not conduct hearing before the Grievance Redressal Committee until disposal of the said Writ Petition. The said Petition is pending in this Court.

13. Thereafter, on 01/06/2015 Petitioner received a letter

from Respondent No.2 dated 29/05/2015 calling upon the Petitioner to attend the hearing before the Committee (as opposed to the GRC) on 16/06/2015 in person and it is submitted that Petitioner - Company was not permitted to be represented through its Lawyers/Chartered Accountants. Being aggrieved by the said letter Petitioner has filed this Petition.

SUBMISSIONS:

14. Mr. Milind Sathe, the learned Senior Counsel appearing on behalf of the Petitioner has made the following submissions.

(i) Firstly, it was submitted that where complex legal issues were involved and which would result in civil and penal consequences to the party on adjudication by an authority, the petitioner would be entitled to get legal assistance. He submitted that, in the present case, the Committee was supposed to decide whether the Petitioner was guilty of wilful default. He submitted that the said determination of the issue was not a mere fact finding exercise but also involved crucial legal issues including the question of mens rea. He

submitted that hearing before the appropriate Committee was not merely to ascertain the facts but also to determine various legal issues.

(ii) Secondly, he submitted that where an adverse decision would have serious civil and pecuniary consequences, denial of legal representation through a legal practitioner would be violative of the principles of natural justice. He submitted that where legal representation was not expressly excluded by necessary implication, it was open to such person to seek representation on cogent grounds. He invited our attention to the judgments of the Apex court in *J.K. Aggarwal vs. Haryana Seeds Development Corporation*¹ (paras 8-9) and *India Photographic Company Ltd vs. Saumitra Mohan Kumar*²

(iii) Thirdly, he submitted that the legal representation ought to be allowed even in the absence of a person being pitted against a legal practitioner, if a case is being handled by a trained prosecutor. He relied on the judgment of the Apex Court in *C.L. Subramaniam vs.*

1 (1991) 2 SCC 283

2 (1983) 2 LLN 796

*Collector of Customs, Cochin*¹

(iv) Fourthly, he submitted that section 30 of the Advocates Act, 1961 gave a right to the advocate to appear at the hearing before GRC and that such right was recognized under Article 19(1)(g) of the Constitution. In support of the said submission, he relied on the judgments of the Apex Court in *Aeltemesh Rein vs. Union of India*² and in *N.K. Bajpai vs. Union of India*³

(v) Fifthly, he submitted that Respondent No.3 Committee is a quasi-judicial body and had a duty to act judicially.

(vi) Sixthly, he submitted that the RBI Master Circular does not contain any prohibition clause in relation to engagement of an advocate. He relied upon the judgment of the Kolkata High Court in *Santanu Ghosh vs. State Bank of India*⁴

(vii) Lastly, he submitted that the amended RBI Circular was inapplicable to the notice dated 29/05/2015 since the said notice dated

1 (1972) 3 SCC 542

2 (1988) 4 SCC 54

3 (2012) 4 SCC 653

4 W.P. No.22439 of 2012, Order dated 8/10/2014

29/5/2015 issued by Respondent No.2 was based on Master Circular of RBI dated 01/07/2014 which did not contain express prohibition for being represented by a lawyer as provided in amended circular which was issued on 07/01/2015. It was submitted that since initial letter was issued on 19/8/2014, procedure under the old Circular had to be followed. He relied on the judgment of the Apex Court in *Videocon International Ltd vs. Securities and Exchange Board of India*¹

15. Mr. Samdani, the learned Senior Counsel appearing on behalf of Respondent No.2 & 3 submitted that parameters for declaration of Wilful Defaulters are fixed under the Master Circular in terms of para 2.1. He submitted that the Identification Committee was to form an opinion on the basis of documents and the Committee does not consist of any legal practitioner or legally trained person. He submitted that the details set out in the show cause notice are all based on facts and there are no legal or complex legal questions of law involved. He then submitted that under the amended RBI Circular, only written reply was required to be given to the Identification Committee and the personal hearing was only a matter of discretion. He further submitted that no personal hearing as a matter of right was available to the

¹ (2015) 4 SCC 33

Petitioner before the Review Committee. He submitted that the Committee did not decide any lis between the parties nor was it called upon to adjudicate any legal dispute involving complicated questions of facts. He, therefore, submitted that there is no breach of principles of natural justice. He further submitted that Committee does not determine any penalty or any offence.

In support of the said submissions, the learned Senior Counsel appearing on behalf of Respondent No.2 has relied upon the following judgments:-

1. *Krishnachandra Tandon vs. Union of India*¹ (para 70)
2. *Crescent Dyes and Chemicals Ltd vs. Ram Naresh Tripathi*²
3. *Bharat Petroleum Corporation Ltd. vs. Maharashtra General Kamgar Union and Others*³
4. *Cipla Ltd and Others vs. Ripu Daman Bhanot and Anr.*⁴
5. *National Seeds Coprn Ltd. vs. K.V. Rama Reddy*⁵
6. *D.G. Railway Protection force & Ors vs. K. Raghuram Babu*⁶
7. *Shri D.I.M. Sarpal vs. Canara Bank*⁷

He submitted that it is now well settled that in a disciplinary

1 (1974) 4 SCC 374
2 (1993) 2 SCC 115
3 (1999) 1 SCC 626
4 (1999) 4 SCC 188
5 (2006) 11 SCC 645
6 (2008) 4 SCC 406
7 (1990) Bom LR 676

proceedings, employee does not have right as such to be represented by a lawyer, unless the Presenting Officer is also a lawyer or a person possessing special training in that connection. He submitted that the Presenting Officer, in the present case, does not have such qualification or training. He, therefore, submitted that decisions on which reliance was placed by the Petitioner viz. *C.L. Subramaniam vs. Collector of Customs, Cochin*¹ and other judgments are distinguishable. He submitted that no reliance could be placed on the judgment of the Delhi High Court in *Kingfisher Airlines Limited vs. Union of India & Ors* delivered in W.P.(C) 5532/2014, since the appeal was pending in the Apex Court. He submitted that the Petitioner had filed a case against the Union Bank of India and its demand for representation through an advocate was declined by the learned Single Judge of Kolkata High Court vide order dated 10/07/2014 passed in Writ Petition No.1924(W) of 2014 (*Kingfisher Airlines Ltd vs. Union of India & Ors*). He submitted that the view of the learned Single Judge was upheld by the Division Bench of the Kolkata High Court. He submitted that the decision declaring the Petitioner as defaulter was set aside on a different ground by the learned Single Judge of the Kolkata High Court vide order dated 24/12/2014 passed in Writ Petition No.942 of 2014 (*Kingfisher Airlines Limited & Ors vs. Union of India & Ors*).

1 (1972) 3 SCC 542

FINDINGS:

16. Reserve Bank of India was pleased to issue a Master Circular dated 01/07/2014, laying down guidelines for the purpose of permitting Banks to declare a borrower as “Wilful Defaulter”. For the purpose of declaring a borrower as “Wilful Defaulter”, in para 3 the procedure which was required to be followed by the Grievance Redressal Committee is laid down. Para 3 of the said Circular dated 01/07/2014 reads as under:-

“3. Grievances Redressal Mechanism

Banks/FIs should take the following measures in identifying and reporting instances of wilful default:

(i) With a view to imparting more objectively in identifying cases of wilful default, decisions to classify the borrower as wilful defaulter should be entrusted to a Committee of higher functionaries headed by the Executive Director and consisting of two GMs/DGMs as decided by the Board of the concerned bank/FI.

(ii) The decision taken on classification of wilful defaulters would be well documented and supported by requisite evidence. The decision should clearly spell out the reasons for which the borrower has been declared as wilful defaulter vis-a-vis RBI guidelines.

(iii) The borrower should thereafter be suitably advised about the proposal to classify him as

wilful defaulter along with the reasons therefor. The concerned borrower should be provided reasonable time (say 15 days) for making representation against such decision, if he so desires, to a Grievance Redressal Committee headed by the Chairman and Managing Director and consisting of two other senior officials.

(iv) Further, the above Grievance Redressal Committee should also give a hearing to the borrower if he represents that he has been wrongly classified as wilful defaulter.

(v) A final declaration as 'wilful defaulter' should be made after a view is taken by the Committee on the representation and the borrower should be suitably advised.

The said para does not expressly exclude the representation being made by the advocate on behalf of the borrower. The consequences of a borrower being declared as a Wilful Defaulter are definitely adverse and the borrower would then not qualify to obtain loan facility from the Financial Institutions. Penal action could also be taken thereafter in accordance with the procedure laid down in Criminal Procedure Code. Under the old circular, Grievance Redressal Committee has to arrive at a decision after giving reasons that the borrower is a Wilful Defaulter and thereafter an opportunity is given to the borrower to make representation against such decision.

17. The amended RBI Circular dated 07/01/2015 makes a slight departure in the said mechanism for identification of Wilful Defaulters. The grievance redressal mechanism which consists of a Committee headed by the Executive Officer and two other Senior Officers of the rank of GM/DGM has to examine the material and if it concludes that the event of wilful default has occurred, has to issue show cause notice to the concerned borrower to make his submissions and thereafter an opportunity of hearing has to be given to the borrower for personal hearing, if the Committee feels that such an opportunity is necessary. The amended Circular of 07/01/2015 therefore gives a discretion to the Committee to decide whether personal hearing should be given or not. In the present case, relying on the amended circular dated 07/01/2015, the Bank has now informed the Petitioner that it would not be entitled to be represented by an advocate.

18. The sum and substance of the arguments advanced by Mr. Milind Sathe, the learned Senior Counsel appearing on behalf of the Petitioner is that since the decision of the Grievance Redressal Committee would entail adverse civil and criminal consequences on the Petitioner, the nature and function of the Committee was not administrative but quasi-judicial and therefore the Petitioner has a legal right to be represented by a lawyer. Reliance has been placed on the judgments in *J.K. Agarwal vs. Haryana Seeds Development*

*Corporation Ltd and Others*¹, *India Photographic Company Ltd vs. Saumitra Mohan Kumar*², *C.L. Subramaniam vs. Collector of Customs, Cochin*³ and *N.K. Bajpai vs. Union of India*⁴ in which judgment of Justice Denning in *Pett vs. Greyhound Racing Association Ltd.*⁵ has been relied upon. The gist of the decisions relied upon by the learned Senior Counsel appearing on behalf of the Petitioner is that if there is a provision which permits representation to be made by a lawyer then such a permission has to be granted and if there is no provision then discretion vests in the body which has initiated the proceedings to decide whether permission to engage an advocate should be granted or not and this discretion has to be exercised in the facts of each case. For the purpose of taking this decision, nature of the proceedings, coram, decision making process, consequences of unfavourable decision are some of the factors which are to be kept in mind.

19. On the other hand, the judgments on which reliance has been placed by the learned Senior Counsel appearing on behalf of Respondent Nos. 2 and 3 disclose that in subsequent decisions, decisions relied upon by the learned Senior Counsel appearing on behalf of the Petitioner have been considered and it has been held that the law in India

1 (1991) 2 SCC 283

2 (1983) 2 LLN 796

3 (1972) 3 SCC 542

4 (2012) 4 SCC 653

5 (1969) 1 QBD 125

does not concede an absolute right of representation to an employee as as part of his right to be heard as one of the elements of principles of natural justice. The Apex Court in *Crescent Dyes and Chemicals Ltd vs. Ram Naresh Tripathi*¹, after dealing with each of the cases in para 13, has observed in para 17 as under:-

“17. It is, therefore, clear from the above case-law that the right to be represented through counsel or agent can be restricted, controlled or regulated by statute, rules, regulations or Standing Orders. A delinquent has no right to be represented through counsel or agent unless the law specifically confers such a right. The requirement of the rule of natural justice insofar as the delinquent's right of hearing is concerned, cannot and does not extend to a right to be represented through counsel or agent. In the instant case the delinquent's right of representation was regulated by the Standing Orders which permitted a clerk or a workman working with him in the same department to represent him and this right stood expanded on Sections 21 and 22(ii) permitting representation through an officer, staff-member or a member of the union, albeit on being authorised by the State Government. The object and purpose of such provisions is to ensure that the domestic enquiry is completed with despatch and is not prolonged endlessly. Secondly, when the person defending the delinquent is from the department or establishment in which the delinquent is working he would be well

1 (1993) 2 SCC 115

conversant with the working of that department and the relevant rules and would, therefore, be able to render satisfactory service to the delinquent. Thirdly, not only would the entire proceedings be completed quickly but also inexpensively. It is, therefore, not correct to contend that the Standing Order or Section 22(ii) of the Act conflicts with the principles of natural justice.”

Similarly, the Apex Court in *Bharat Petroleum Corporation Ltd. vs. Maharashtra General Kamgar Union and Others*¹, after taking into consideration all the judgments on the point, in para 33 has observed as under:-

“33. The earlier decision in *N. Kalindi v. Tata Locomotive & Engineering Co. Ltd.*, [AIR 1960 SC 914 : (1960) 3 SCR 407 : (1960) 2 LLJ 228], *Dunlop Rubber Co. (India) Ltd. vs. Workmen* [AIR 1965 SC 1392 : (1965) 2 SCR 139 : (1965) 1 LLJ 426 and *Brooke Bond India (P) Ltd. v. Subba Raman (S.)* [(1961) 2 LLJ 417 : (1961) 3 FLR 526] were followed and it was held that the law in this country does not concede an absolute right of representation of an employee as part of his right to be heard. It was further specified that there is no right to representation as such unless the company, by its Standing Orders, recognizes such a right. In this case, it was also laid down that a delinquent employee has no right to be represented in the departmental proceedings by a lawyer unless the facts involved in the disciplinary

1 (1999) 1 SCC 626

proceedings were of a complex nature in which case, the assistance of a lawyer could be permitted."

Thereafter, the Apex Court in *Cipla Ltd and Others vs. Ripu Daman Bhanot and Anr.*¹, in para 13, again after considering all the judgments of the Apex Court, has observed as under:-

"13. In *N. Kalindi v. Tata Locomotive & Engg. Co. Ltd.* [AIR 1960 SC 914 : (1960) 3 SCR 407], it was held that a workman against whom a departmental enquiry is held by the management has no right to be represented at such enquiry by an outsider, not even by a representative of his union though the management may in its discretion allow the employee to avail of such assistance. So also in *Dunlop Rubber Co. (India) Ltd. vs. Workmen* [AIR 1965 SC 1392 : (1965) 2 SCR 139 : (1965) 1 LLJ 426] it was laid down that an employee has no right to be represented in the disciplinary proceedings by another person unless the Service Rules specifically provided for the same. A three-Judge Bench of this Court in *Crescent Dyes and Chemicals Ltd. vs. Ram Naresh Tripathi* [(1993) 2 SCC 115 : 1993 SCC (L & S) 360 : 1992 Supp (3) SCR 559] and regulated by statutes or by the Service Rules including the standing orders, applicable to the employee concerned. The whole case-law was reviewed by this Court in *Bharat Petroleum Corpn, Ltd. vs. Maharashtra General Kamgar Union* [(1999) 1 SCC 626 : 1999 SCC (L&S) 361] and it was held that a delinquent employee has no right

¹ (1999) 4 SCC 188

to be represented by an advocate in the departmental proceedings and that if a right to be represented by a co-workman is given to him, the departmental proceedings would not be bad only for the reason that the assistance of an advocate was not provided to him.”

Similar view has been taken by the Apex Court in *D.G. Railway Protection force & Ors vs. K. Raghuram Babu*¹ and in the said judgment the Apex Court has observed in para 11 as under:-

“11. Following the above decision it has to be held that there is no vested or absolute right in any charge-sheeted employee to representation either through a counsel or through any other person unless the statute or rules/standing orders provide for such a right. Moreover, the right to representation through someone, even if granted by the rules, can be granted as a restricted or controlled right. Refusal to grant representation through an agent does not violate the principles of natural justice.”

20. From the conspectus of cases which have been cited before us, we are of the view that there cannot be any straight jacket formula which can decide whether a person is entitled to be represented by an advocate and ultimately it would all depend on facts and circumstances of each case.

¹ (2008) 4 SCC 406

21. In the present case, both the Circulars namely Circular dated 01/07/2014 and 07/01/2015 do not expressly provide that the borrower can be represented by a lawyer. The second amended Circular gives a discretion to the Redressal Grievance Committee to decide whether personal hearing should be given or not. There is no express prohibition of the borrower to be represented by a lawyer. The purpose of the Master Circular issued by Reserve Bank of India is to find out whether the defaulter is siphoning of funds or diverting funds and if the Bank comes to that conclusion then it can put further restrictions on the borrowing ability of the borrower. In that sense, there is no adjudication made by the Grievance Redressal Committee but it makes only the assessment of facts and the conclusion is arrived at thereafter on the basis of these facts.

22. In the present case, Petitioner - Company owes an amount of Rs 6,900 crores from consortium of banks. Repayment of this public money is nowhere in sight. If the allegations in the show-cause notice issued by the Grievance Redressal Committee are correct then it would lead to further depletion of the funds of the Petitioner - Company which would make it impossible for consortium of Banks including Respondent No.2 - Bank to recover the public money which has been given to the Petitioner.

23. Taking into consideration the urgency in the matter, in our view, therefore, the Petitioner is not entitled to be represented by a lawyer. We are fortified by the view taken by the learned Single Judge of the Kolkata High Court vide order dated 10/07/2014 passed in Writ Petition No.1924(W) of 2014 (Kingfisher Airlines Ltd vs. Union of India & Ors) wherein it has been held that in such cases borrower has no right to be represented by an advocate at the hearing before the Committee. This view of the learned Single Judge has been upheld by the Division Bench of the Kolkata High Court in AST No.320 of 2014 in Kingfisher Airlines Limited vs. Union of India & Others with CAN No.8329 of 2014 decided on 28/08/2014.

24. Though the Petitioner had preferred an SLP before the Apex Court, the SLP had become infructuous because, by that time, the Petitioner had been declared as Wilful Defaulter. Though the said order was again challenged by the Petitioner before the Kolkata High Court and the Order of Grievance Redressal Committee was set aside, it was not set aside on the ground of the Petitioner not being allowed to be represented by the Advocate.

25. We are therefore of the view that the borrower is not entitled, as a matter of right, to be represented by the Advocate before the Grievance Redressal Committee.

26. However, in the peculiar facts and circumstances of the case, in order to curtail further time which may be taken for deciding the issue whether the Petitioner is a Wilful Defaulter or not, since the Petitioner may challenge this order in the Apex Court we are of the view that if the Petitioner gives an undertaking to this Court that if it is allowed to be represented by its advocate, its advocate would conclude his submissions in one day then in such an event the Petitioner will be permitted to engage an advocate. The Delhi High Court in its Order dated 28/08/2014 in Kingfisher Airlines Ltd vs. Union of India & Others delivered in W.P. (C) 5532/2014 has made the following observations:-

“The apprehension expressed by the learned counsel for the respondent that the petitioner is only seeking to delay the proceedings, can be allayed by fixing timelines. Accordingly, it is directed that the respondent shall provide the petitioner's with copies of all documents that are relied upon by the respondent, if not already provided within a period of one week from today. The authorized representative of the petitioner alongwith an Advocate and a Senior Advocate, if any, will be present in the office of the respondent bank at 10.30 AM on 22.09.2014. It is also clarified that the petitioner shall confine their oral submissions on that day to not more than six hours. The hearing will be concluded on 22.09.2014 itself. The petitioner is at liberty to file written submissions alongwith any documents that the petitioner wishes to rely upon before

the Committee on that date. The Committee shall thereafter take a decision whether the petitioner is a wilful defaulter.”

27. We are of the view that the formula which is adopted by the Delhi High Court would meet the ends of justice and the Petitioner would not have a grievance that it was not allowed to be represented by an advocate and, at the same time, there would be no question of further delay being caused after the advocate is appointed to represent the Petitioner and the hearing would be concluded immediately.

28. In the present case, the first show cause notice was issued to the Petitioner in August, 2014. Thereafter, Petitioner filed two Writ Petitions in this Court on various grounds. Almost a year is passed after issuance of the said notice and yet, hearing has not been taken place before the Grievance Redressal Committee. The very purpose and object of the Master Circular issued by RBI would be rendered nugatory if the Grievance Redressal Committee does not come to a conclusion one way or the other expeditiously. It is under these circumstances, we are of the view that the Petitioner should give an undertaking to this Court that upon being permitted to be represented by an advocate, its advocate would conclude his submissions in one day and thereafter the Grievance Redressal Committee

would take decision one way or the other.

CONCLUSION:

29. For the reasons stated hereinabove, we are of the view that the Petitioner is not entitled to be represented by a lawyer and therefore principles of natural justice will not be violated if the Petitioner is heard without being represented by a lawyer. However, in the peculiar facts and circumstances of the case and to avoid further delay, we permit the Petitioner to appoint an Advocate to represent the Petitioner provided the Petitioner gives an undertaking that hearing of the matter would be concluded in one day. We accordingly direct the State Bank of India to inform and coordinate with the Petitioner and decide the date of hearing at the earliest. Petitioner has agreed in principle that the hearing will be concluded in one day.

30. Writ Petition is therefore partly allowed in the aforesaid Terms. Rule is partly made absolute accordingly. Writ Petition is disposed of.

(B.P. COLABAWALLA, J.)

(V.M. KANADE, J.)