**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 18726 of 2017 (O&M)
Date of decision: 12.12.2017

M/s Amrit Enterprises and another .. Petitioners

vs

Corporation Bank and another .. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Gurvinder Singh Gill**

Present: Mr. Anand Chhibbar, Senior Advocate with
Mr. Gaurav Mankotia, Advocate, for the petitioners.

Mr. Narinder Singh Lucky, Advocate, for the respondents.

Rajesh Bindal, J.

This order will dispose of six writ petitions bearing CWP Nos. 18726, 18731, 18733, 18735, 18736, 18737 of 2017, as common questions of law and facts are involved therein.

The only issue sought to be raised by the petitioners is that in terms of the policy document issued by the Reserve Bank of India dated 17.3.2016, providing framework for revival and rehabilitation of Micro, Small and Medium Enterprises (MSMEs), application filed by the petitioners for restructuring of their loan was not considered by the Committee, constituted in terms of para 3.3 of the aforesaid policy, after affording opportunity of hearing to the petitioners. The petitioners will be satisfied in case an opportunity of hearing is granted by the Committee so as to enable the petitioners to amend or modify the proposal in case any part thereof is not acceptable as such.

The fact that the Committee had not afforded any opportunity of hearing to the petitioners is not disputed. It was submitted that the Committee had considered the proposal submitted by the petitioners along with office note submitted by the bank and after deliberations, it was decided that the proposal submitted is not worth acceptance and recovery proceedings be initiated against the loanees.

After hearing learned counsel for the parties, in our view, the procedure adopted by the Committee for dealing with the request made by the loanees for revival and rehabilitation of Micro, Small and Medium Enterprises (MSMEs) in terms of the policy circulated by the Reserve Bank of India, is not legally sustainable. In the finance world, especially in relation to the dealing of the banks with the loanees where either the loan is to be restructured or additional finance is to be provided, it would always be better in case decision is taken after hearing the party concerned. In case any part of the proposal submitted by the applicant is not acceptable and the applicant is given opportunity of hearing, he is able to either modify the proposal earlier given or can file a fresh proposal. In the process the object with which policy has been framed will be better achieved. Shutting down an industrial unit, which can be revived is not in interest of either of the parties. However, in case the request made by the loanee for restructuring/ additional finance is acceptable as such, there may not be any need to afford opportunity of hearing to the applicant, as the applicant is bound by the conditions as contained in the letter of request submitted by him. While following this process, the time line provided for in the policy issued by the Reserve Bank of India shall be kept in view and the process shall not be permitted to be used to delay the action on the applicant for restructuring/ additional finance.

For the reasons mentioned above, the impugned action taken by the bank and the Committee in rejecting the application of the petitioners for restructuring/additional finance is set aside only on the ground of violation of principles of natural justice. The matter is remitted to the authority concerned for re-consideration after affording opportunity of hearing to the petitioners. It is made clear that this Court is not opining on the merit of the controversy.

As during the interregnum after the writ petition was filed challenging rejection of application for restructuring/ additional finance, some time has lapsed, the petitioners shall be permitted to submit fresh proposal for consideration by the Committee. The needful shall be done by the petitioners within two weeks from today. Subsequent action by the bank shall be taken in terms of the time schedule provided in the policy as circulated on 17.3.2016.

Till such time final decision is taken by the Committee concerned, the proceedings under Section 13 and 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, may continue, however, the actual physical possession of the property in dispute shall not be taken. In case of rejection of the request made by the petitioners, the bank shall be at liberty to proceed further in the matter and the petitioners shall be at liberty to avail of their appropriate remedy in accordance with law.

The writ petitions stand disposed of accordingly.

(Rajesh Bindal)
Judge

12.12.2017 (Gurvinder Singh Gill)
vs Judge

Whether speaking/ reasoned Yes/No

Whether Reportable Yes/No