IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10701 of 2017

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Rajeev Ranjan S/o Late Shyam Sundar Das, resident of Rusulpur, Tilani, Majhaulia Road, Muzaffarpur 842001.

.... Petitioner

Versus

1. The Central Bank of India having its registered office at Nariman Point, Mumbai through its Chairman cum Managing Director.
2. The Senior Manager (Recovery Cell), Central Bank of India, Zonal Office, Maurya Lok Complex, Patna.
3. The Deputy General Manager, Central Bank of India, Regional Office, Muzaffarpur.
4. The Authorized Officer, Central Bank of India, Maripur, Muzaffarpur.
5. The Senior Manager, Central Bank of India, Maripur, Muzaffarpur.
6. The Branch Manager, Central Bank of India, Maripur, Muzaffarpur.
7. The Reserve Bank of India, South Gandhi Maidan, Patna through the Banking Ombudsman.

.... Respondents

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Appearance :

For the Petitioners :	Mr. P.N. Shahi, Sr. Advocate
	Mr. Gautam Kr. Kejriwal, Adv
For Respondent-Bank :	Mr. Ajay Kumar Sinha, Advocate
For the R.B.I. :	Mr. Kaushal Kr. Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-07-2018

The present writ petition has been filed for the following reliefs –

> *"(a) For issuance of a writ in the nature of certiorari for quashing of the letter dt. 11.07.17 issued by the Reserve Bank of India (representing the Banking Ombudsman) whereby the complaint made by the petitioner has been closed illegally on the basis of an erroneous reference made to Clause 8 of the Banking Ombudsman Scheme 2006 (hereinafter referred to as "the Scheme" for short];*
>
> *(b)For holding and a declaration that the unilateral restructuring of loan account with enhancement of both period and EMI by the respondent Central Bank of India and*

its authorities without any intimation and consent of the petitioner is in contravention of the related guidelines of the Reserve Bank of India regarding debt restructuring procedures and as such is illegal, unreasonable and unsustainable in the eyes of law;

(c) For issuance of a direction upon the respondent no. 4 to 6 to provide the details of dues against the petitioner on account of principal and interest in terms of the original letter of sanction and grant adequate time to the petitioner to pay the same;

(d) For issuance of appropriate writ, order or direction for quashing of the entire proceeding of recovery of loan dues initiated by the respondent Central Bank of India and its authorities under SARFAESI Act 2002;

(e) For holding and a declaration that the respondent no. 7 has all jurisdiction and authority in terms of Clause 8(2) of the scheme and as such the respondent no. 7 ought to have decided the issue on merits instead of closing the complaint of the petitioner by way of the impugned letter dt. 11.07.17;

(f) For grant of any other relief or reliefs to which the petitioner is found entitled to in the facts and circumstances of the case."

2. Mr. P.N. Shahi, learned senior counsel appearing on behalf of the petitioner, submits that the Banking Ombudsman has erred in law in passing the impugned order refusing to exercise jurisdiction vested in him in terms of Clause 8(2)(d) of the Banking Ombudsman Scheme, 2006. It is stated that he ought to have entertained the objection of the petitioner on the ground of violation of clause 3.1.3 of the Master Circular by Reserve Bank of India dated 27.08.2018 (Annexure-15) which required formal consent of the petitioner for restructuring of the loan in question.

3. Mr. Ajay Kumar Sinha, learned counsel appearing on behalf of the respondent-Central Bank of India, submits that the stand of the petitioner suffers from a misreading of para 8(2) of the said Scheme. It is submitted that clause (d) thereof is relatable only to the foregoing clauses (a), (b) and (c), none of which are applicable in this case as they have nothing to do with restructuring of loans. It is therefore submitted that no error has been committed by the Banking Ombudsman in not entertaining the petitioner's application. It is further pointed out that in any event, it is the petitioner's case that pursuant to the SARFAESI proceeding initiated against him, he has since made payment in terms of the Bank's Certificate dated 10.01.2018 (page 75 of the brief) and the account of the petitioner has been closed.

4. Having heard learned counsel for the parties and on careful consideration of the materials available on record, I find the writ petition to be devoid of merit. Para 8(2) of the Banking Ombudsman Scheme, 2006 is being reproduced hereunder for convenience —

> *"(2) A complaint on any one of the following grounds alleging deficiency in banking service in respect of loans and advances may be filed with the Banking Ombudsman having jurisdiction:*
>
> *(a) non-observance of Reserve Bank Directives on interest rates;*
>
> *(b) delays in sanction, disbursement or non-observance of prescribed time schedule for disposal of loan applications;*
>
> *(c) non-acceptance of application for loans without furnishing valid reasons to the applicant; and*
>
> *(d) non-observance of any other direction or instruction of the Reserve Bank, as may be specified by the Reserve Bank for this purpose from time to time."*

5. Mr. Shahi has been unable to satisfy this Court that the case of the petitioner falls within any of clauses (a),(b),(c) or (d) of para 8(2) of the Scheme. As such, I am unable to hold that the Banking Ombudsman failed to exercise the jurisdiction vested in him.

6. The contention of the petitioner that the respondent-Central Bank of India has violated the Reserve Bank of India Guidelines inasmuch as the petitioner's consent was not taken prior to restructuring of the loan, is no longer required to be decided in view of the admitted fact that the petitioner has himself since liquidated the entire loan amount and nothing remains outstanding against him. For the same reason, it is not necessary to consider the relief sought by way of quashing of the entire proceeding for recovery of loan amount initiated under the SARFAESI Act against the petitioner.

7. At this stage, learned senior counsel for the petitioner makes an oral submission at the Bar that the petitioner was coerced into making payment of amounts in excess of his legitimate dues pursuant to the SARFAESI action taken against him. This Court makes no observation in this regard. The petitioner is always at liberty, if aggrieved by reason of any excess amount having been realised from him, to approach the concerned authority for appropriate redressal of his grievance. In such event, the matter should be decided on its own merits and without being influenced by any observation contained herein or by the fact that this Court has not entered into the merits of the question relating to restructuring of the loan without consent of the petitioner.

8. The writ petition stands disposed of.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
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