

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2018

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THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.Nos.15823 and 15824 of 2016
W.M.P.Nos.13722 and 13723 of 2016

W.P.No.15823 of 2016:

Dr.R.Natarajan & Associates
Represented by Dr.R.Natarajan
Proprietor, Door No.81
Dr.Lakshmanaswami salai
K.K.nagar, Chennai-600 078

.. Petitioner

Vs

1.Indian Banks' Association
Represented by its Chairman
World Trade Centre, VI floor
Centre I building
World Trade Centre Complex
Cuff parade, Mumbai-400 005.

2.Corporation Bank
Corporate building
Mangaladevi temple road
Pandeshwar
Mangaluru-575 001
Karnataka.

3.Corporation Bank
Represented by its
Assistant General Manager
Zonal office, Chennai
Door Nos.38 and 39
Whites road (P.B.No.2227)
Chennai.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for entire records relating to the circular letter Ref.No.ZO:CHEN:CRMD:OR:402:15-16 dated 23.03.2016 from the file of the 3rd respondent, quash the same and further direct the respondents to give an opportunity of hearing in the disciplinary proceedings or penal action intended or contemplated or initiated against the petitioner in accordance

with law and principles of natural justice.

W.P.No.15824 of 2016:

Dr.R.Natarajan & Associates
Represented by Dr.R.Natarajan
Proprietor, Door No.81
Dr.Lakshmanaswami salai
K.K.nagar, Chennai-600 078

.. Petitioner

Vs

1.Indian Banks' Association
Represented by its Chairman
World Trade Centre, VI floor
Centre I building
World Trade Centre Complex
Cuff parade, Mumbai-400 005.

2.Karnataka Bank, Registered and
Head Office, Mahaveera Circle
Represented by its Deputy General Manager
Kankanady (P.O.Box No.599)
Mangaluru - 575 002
Karnataka.

3.Karnataka Bank
Represented by its
Assistant General Manager
Regional Office
No.324 Thambu Chetty street
Chennai-600 001.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for entire records relating to HO/CrMD/SC/60043(A)/213/2016-17, dated 06.04.2016 from the Deputy General Manager, Credit Monitoring Department-Statement Cell from the file of the 2nd respondent, quash the same and further direct the respondents to give an opportunity of hearing in the disciplinary proceedings or penal action intended or contemplated or initiated against the petitioner in accordance with law and principles of natural justice.

In W.P.No.15823 of 2016:

For Petitioner : Mr.M.Rajasekar
For R1 and R3 : Mr.Sethuraman

In W.P.No.15824 of 2016:

For Petitioner : Mr.M.Rajasekar
For R1 : Mr.Sethuraman
For R2 and R3 : Mr.A.Arumugam

COMMON ORDER

The petitioner has come up with these writ petitions challenging the impugned proceedings dated 23.03.2016 issued by the third respondent and impugned proceedings dated 06.04.2016 issued by the second respondent respectively and further seeking a direction to the respondents to afford an opportunity of hearing in the disciplinary proceedings initiated against the petitioner in accordance with law.

2. According to the petitioner, he is an approved valuer in the panel of the second and third respondents bank for more than 15 years. The Indian Banks' Association stipulates that in case of any proceedings against the valuers, a decision should be taken after affording an opportunity of hearing to them. In W.P.No.15823 of 2016, the third respondent by the impugned proceedings dated 23.03.2016, without issuing any show cause notice and affording an opportunity of hearing to the petitioner, passed an order directing its Retail Loan Centre and all branches not to entrust any assignment to the petitioner concern for valuation of the properties, delist and depanel the petitioner from the panel of approved valuers. The said proceedings dated 23.03.2016 is passed based upon some internal communication dated 10.03.2016, which the petitioner has not aware, from the first respondent to the second respondent. Therefore, the petitioner is before this Court seeking the above prayer.

3. In W.P.No.15824 of 2016, the second respondent has issued a show cause notice dated 14.03.2016 to the petitioner calling upon him to show cause as to why his name should not be deleted from the panel of approved valuers on the alleged ground of over valuation on certain properties. The petitioner has offered his explanation on 24.03.2016. The second respondent by the impugned proceedings dated 06.04.2016, without conducting any enquiry and affording an opportunity of hearing to the petitioner, passed an order removing the petitioner from the list of approved valuers stating that the said order is passed after perusing the reply of the petitioner. Therefore, the petitioner is before this Court seeking the above prayer.

4. Heard the learned counsel for the petitioner as well as the learned Panel Counsel for the respondents.

5. The learned counsel for the petitioner, though raised so many grounds, ultimately pleaded that the allegations levelled

against the petitioner is absolutely false and without granting an opportunity of hearing as provided in the Policy, Standards and Procedures for Real Estate Valuation by the Banks, where clause 1.4., which deals with removal, stipulates certain procedures to be adopted, reads as follows:

"1.4 Removal

In extreme cases where the valuer has been found to be indulging in unfair practices, guilty of professional misconduct, violating the code of ethics and professional practice, he shall be removed from the panel. The procedure to be followed by the banks / housing finance institutions shall comprise of the following steps:

- issue of show cause notice
- hearing
- appropriate action, including removal from the panel for a period of five years, if charges are found serious."

6. When such being the position, I am of the view that without providing an opportunity of being heard to the petitioner so as to put forth his grievances as well as objections, straightaway removing the petitioner from the panel of valuers cannot be sustained in the eye of law.

7. For the above reasons, the impugned proceedings dated 23.03.2016 and 06.04.2016 are hereby set aside and the matters are remanded back to the respondents to conduct fresh enquiry after affording an opportunity of hearing to the petitioner, consider all the objections raised and thereafter, pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

8. Accordingly, these writ petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

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+2cc to Mr.D. Shivakumaran, Advocate SR.No.64713

+2cc to Mr.S.Sethuraman, Advocate SR.No.64719

+1cc to Mr.A.Arumugam, Advocate SR.No.64530

W.P.Nos.15823 and 15824 of 2016
W.M.P.Nos.13722 and 13723 of 2016

GMV (24/09/2018)



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