

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.15037 of 2019

ORDER:

The case of the petitioners is that they were issued show-cause notice dated 22-01-2018 by the 2nd respondent stating that Wilful Defaulter Identification Committee of the bank (Committee) has examined the conduct and utilization of credit facilities extended to the petitioners by the 2nd respondent-bank and concluded the facts/events of wilful default committed by the petitioners and asked the petitioners to show-cause as to why their names should not be included in the list of wilful defaulters as per RBI guidelines and the petitioners responded to the said notice and submitted explanation on 23-02-2018. The 2nd respondent by letter dated 19-04-2018 gave an opportunity of personal hearing to the petitioners to appear before the Committee on 05-05-2018. The petitioners through their authorized representative i.e. the 4th petitioner communicated to the 2nd respondent-bank by expressing their willingness to appear before the Committee on 05-05-2018 inspite of his ill-health. However, the 2nd respondent-bank communicated the petitioners that personal hearing scheduled for 05-05-2018 stood cancelled and rescheduled on 14-05-2018. Subsequently the 4th petitioner vide letter dated 11-05-2018 requested the 2nd respondent-bank to schedule the personal hearing at a later date of atleast two to three weeks from the scheduled date, as the 4th petitioner was not well. As there was no response received from the 2nd respondent-bank, the 4th petitioner vide letter dated 21-05-2018 reiterated the contents of his earlier letter dated 11-05-2018 and requested the 2nd respondent-bank to

reschedule the personal hearing in June, 2018. But there was no response from the 2nd respondent-bank and the petitioners were shocked to receive the decision by communication dated 07-08-2019 stating that the Committee has rejected the submissions of the petitioners and decided to include the names of the petitioners in the list of Wilful Defaulters, which was stated to be received by the petitioners on 17-08-2019. The petitioners addressed a letter on 21-08-2018 to the 2nd respondent to grant another opportunity of hearing and the same was also does not elicit any response. The 2nd respondent-bank, however, issued a notice dated 08-08-2018 to the petitioners to repay the outstanding amounts. The petitioners were also surprised to find their names and photographs published in the newspapers and in the form of Public Notice on 01-07-2019. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioners submits that the though identification committee scheduled to give an opportunity of hearing and fixed the date as 05-05-2018, but the same was postponed and later no date is fixed. Later though date was fixed on 14-05-2018 and the petitioners sought for extension of time, but no date was fixed later, which is in violation of principles of natural justice and the respondents have not considered the explanation of the petitioners in proper perspective.

On the other hand, Sri Ambadipudi Satyanarayana, learned Standing Counsel basing on the counter affidavit submits that the petitioners were given an opportunity of hearing on 05-05-2018 and due to administrative reasons, the same could not be taken place on 05-05-2018 and again date of hearing fixed on

14-05-2018 but the petitioners have not utilized the same, as the 4th petitioner was not well. If the 4th petitioner was not well, some other Director could have represented the company and even after said notice, the petitioners have come-up for settlement and they have kept quiet till their photographs published and though Review committee confirmed the order identification committee on 07-08-2018.

In this case it is to be seen that admittedly the identification committee exercised the option of giving personal hearing to the petitioners and fixed the date on 05-05-2018, but the same could not be taken-place due to administrative reasons and again date was fixed on 14-05-2018 but before that date, the petitioners asked for extension of time by letter dated 11-05-2018. But there was no response and no date was fixed and no order is passed on the representation of the petitioners and on the date fixed for personal hearing i.e. on 14-05-2018, the identification committee passed the order, which was confirmed by the Review committee on 18-07-2018 and communicated the same to the petitioners on 07-08-2018. Though the Review committee passed order in July, 2018, the petitioners kept quiet till July, 2019. Only after their photographs were published in newspapers on 01-07-2019, they filed the writ petition. But the fact remains that an opportunity of hearing was not given and there was no response on the representation of the petitioners for postponement of date of personal hearing on 14-05-2018. Though it is the discretion of identification committee for grant of opportunity of personal hearing, but having taken decision to grant opportunity, they should have granted that opportunity of personal hearing.

In view of the above facts and circumstances, without expressing any opinion on merits, only on the ground of violation of principles of natural justice, the impugned communication dated 07-08-2018 is set aside and the first committee is directed to grant an opportunity of personal hearing and pass appropriate orders and depending on the outcome, the Review Committee to take follow-up action in accordance with law.

Accordingly, the writ petition is allowed to the extent indicated above.

As a sequel, miscellaneous petitions, if any, pending shall stand closed.

14-08-2019
Nvl

A.RAJASHEKER REDDY,J



