

HIGH COURT OF CHHATTISGARH AT BILASPUR**WP(C) No. 1861 of 2020**

1. Harish Kumar Agrawal S/o Shri Suresh Kumar Agrawal Aged About 41 Years Director Of M/s Photogen Energy (I) Pvt. Ltd, R/o Adarsh Nagar, Charoda, Bhilai, Tehsil And District Durg Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through District Magistrate / Collector Durg, District Durg Chhattisgarh.
2. State Bank Of India Through Branch Manager, Branch Acb Durg, District Durg Chhattisgarh
3. State Bank Of India Through Branch Manager, Stressed Assets Recovery Branch, Block B - 1, Pujari Chamber, Near Pachpedi Naka, Raipur, District Raipur Chhattisgarh.

---Respondents

For Petitioner	:	Mr. Surfaraj Khan, Adv.
For State/Respondent No.1	:	Mr. Siddharth Dubey, Dy. G.A.
For Resp. Nos. 2 & 3	:	Mr. Sudeep Agrawal, Adv.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****20/08/2020**

1. The challenge in the present writ petition is to Annexure P/1 dated 06.08.2020, which is a notice for personal hearing given to the petitioner seeking an explanation through video conferencing facility arranged by the respondent-State Bank of India to be held on 24.08.2020 in-respect-of as to why the name of the petitioner should not be included in the list of willful defaulters as per RBI guidelines.
2. The counsel for the petitioner submits that the petitioner has already submitted his detailed reply to the show-cause notice initiated in this regard by the Bank on 27.10.2016 itself and since then, the matter is pending before the Committee. During the intervening period, it is said that the petitioner has also approached before the concerned DRT as also before DRAT, questioning the proceedings drawn under the SARFAESI Act U/S 13 (4). However, on account of the present pandemic situation neither the DRT nor the DRAT are functioning

normally, therefore the petitioner finds it difficult to approach the said Authority.

3. Counsel for the petitioner further submits that he would also find it difficult to convince the authorities through video conferencing facility. According to the petitioner, the respondent- Banks are trying to take advantage of the pandemic situation by initiating proceedings during this precarious condition, and the respondent are proceeding in a predetermined manner.
4. At the outset, this Court is of the opinion that the impugned notice is only a notice calling upon the petitioner for a personal hearing and the personal hearing has been granted through video conferencing facility.
5. The fact which needs to be considered is that if the respondents would have had any malafide against the petitioner, they could have by now already taken a decision. The fact that the show-cause notice which was issued as early as on 29.09.2016 has not been finalized till now, this itself forces this Court to draw an inference that there is no malafide on the part of the respondents against the petitioner. The impugned notice is only a notice calling upon the petitioner to make his submission and explanation. The petitioner would have all the liberty to make all those submissions that he intends to make in the present writ petition before the authorities concerned on the given date on which he has been asked to appear through VC.
6. That on the petitioner appearing before the authorities through VC and making his submissions, this Court finds no reason as to why his submission would not be objectively considered by the Committee before taking a final decision.

7. Given the said observations, the present writ petition itself can be disposed of directing the petitioner to approach before the concerned committee on the date given to him to appear for making his submission through video conferencing facility and the respondent in turn shall also objectively consider the submission made by the petitioner before taking a final decision.
8. With the aforesaid observation/direction, the writ petition accordingly stands disposed of.

Sd/-

(P. Sam Koshy)
Judge

Jyotijha