IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.01.2020

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.10847 of 2019
and
W.M.P.No.11291 of 2019

Syed Shakir Ali
M/s Care Tour Operator ... Petitioner/Petitioner

Vs

1.The General Manager Dept. of Banking
Reserve Bank of India, Chennai-600 001. ... Respondent 1

2. M/s Kotak Mahindra Ltd.
(Mount Road Branch)
No.1/4 General Patters Road,
Chennai 600 002. ... Respondent 2

3.The Central Bureau of Investigation,
O/o the Superintendent of Police,
Economic Offence -I, Economic Offences,
Unit-III, CBI HQRS, A-wing, 5-B,
CGO Complex, Lodhi Road,
New Delhi. ... Respondent 3

4. Central Bureau of Investigation,
Bank Securities and Frauds Branch,
No.36, Bellary Road,
Ganganagar, Bangalore-560 032. ... Respondent 4

5. Senior Inspector of Police,
BKC Police Station, Mumbai-51. ... Respondent 5

(R3 to R5 impleaded as per order dated 18.10.2019 in WMP.27999/2019 in WP.10847/2019)

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the 1st respondent dispose the representation / complaint dated 08.10.2018 of the petitioner and to pass such further orders within the time limit to be fixed by this Court as the case may be.

For Petitioner : Mr.S.Zakir Hussain

For Respondents : Mr.P.J.Bency Switesingh Dhas for R2
: Mr.K.Srinivasan, Spl.PP (CBI cases) for R3 and R4

ORDER

1.This Writ Petition has been been filed by the petitioner, praying for issuance of a Writ of Mandamus, to direct the 1st respondent dispose the representation / complaint dated 08.10.2018 of the petitioner and to pass such further orders within the time limit to be fixed by this Court.

2.This Writ Petition has been filed by the petitioner Syed Shakir Ali who is a partner in M/s Care Tour Operator, having registered office at Chennai, originally against the second respondent and later, against the other respondents who were impleaded by order of this Court.

3.The brief facts of the case are that the petitioner was having two Partnership Firms namely M/s Care Tour Operators and M/s Guide & Tour & Travels. Both the Partnership Firms were having separate bank accounts with the second respondent M/s Kotak Mahindra Bank at Chennai. The partners of partnership firms involved themselves with various affairs which attracted criminal offences and in connection with the same, the Inspector of Police, BKC Police Station, Mumbai issued a letter to the second respondent stating that a case in Cr.No.143 of 2015 had been registered as against the M/s Guide & Tour & Travels under Section 420, 465m, 467, 468, 471 and Section 34 of IPC and consequently in exercise of powers under Section 102 of Cr.P.C a direction was issued to the second respondent not to allow any debit transaction in the account of M/s Guide Tour & Travels, namely A/c No.4030-1103-6203. It also stated in the very same letter that the second respondent should also furnish information about any other account held by either individually or in the name of the partners or any partnership firm or M/s Guide Tour & Travels. This communication had been interpreted by the second respondent to not only to freeze the accounts of M/s Guide Tour & Travels, but also to freeze the accounts of the petitioner herein, M/s Care Tour Operator. This action of the second respondent has been done without issuing any notice or seeking clarification from the Inspector of Police BKC Police Station in Mumbai. As a matter of fact the said Inspector of Police has been impleaded as 5th respondent in the present Writ Petition and respondents 3 and 4 are the Central Bureau of Investigation. They have filed a counter stating that they have only sought for details of the bank accounts and no directions have been issued to freeze the account of M/s Care Tour Operator or that action has been taken under Section 102 of Cr.P.C.

4.The learned counsel for the petitioner has stated that the account of M/s Care Tour Operator is a separate and independent account and that the action of the second respondent in freezing the account is hereby arbitrary and should be interfered with.

5.The learned counsel for the second respondent however pointed out that the officials of the second respondent had interpreted the letter from the Inspector of Police BKC Police Station / 5th respondent that all accounts which are common should be frozen and it was only on that basis that the account of M/s Care Tour Operator was also frozen. In this connection, it must be pointed out that there were two bank accounts namely, 4030-1103-6203 - M/s Guide Tour & Travel, Chennai which was directed to be freezed by the Inspector of Police, BKC Police Station, Mumbai/ 5th respondent and 4070-1104-4586 which is the name of the M/s Care Tour Operator. Since there are two distinct accounts, the second respondent should have take steps to enquire the Inspector of Police, BKC Police Station, Mumbai and could not have frozen that account and could not have prevented the petitioner from operating the said account.

6.In view of this fact, since, without any authority the second respondent had refused permission to the petitioner to operate the account of M/s Care Tour Operator namely 4070 1104 4586, this Writ Petition is allowed with a direction to the second respondent to immediately permit the petitioner to operate the said account. The balance in the said account should be adjusted with accrued interest being added from the date on which the account was frozen to till date. Since, there will be a continuing relationship with the second respondent by the petitioner, this Court is not awarding costs.

7.With the above lines, the Writ Petition is disposed of. No costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

jrs

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5. The Senior Inspector of Police,
BKC Police Station, Mumbai-51.

+1cc to Mr.S.Zakir Hussain, Advocate SR.No.3812

+1cc to Mr.P.J.Bency Switesingh Dhas, Advocate SR.No.3442

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and
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GJ(CO)
GMY(11/02/2020)