BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.08.2020
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.8896 of 2020
and
W.M.P(MD).No.8153 of 2020

Mahasemam Trust
A Public Trust
Represented by its Trustee
Dr.Prabhu Vairavan Prakasam ...Petitioner

Vs.

1.Reserve Bank of India
Represented by its Regional Manager
Fort Glacis, No.16
Rajaji Salai
Chennai 600 001\

2.CRIF High Mark Credit Information
Service Private Limited
FOFB-04, 05,06 Fourth Floor
Art Guild House
Phoenix Market City
CTS No.124/B, LBS Marg
Kurla West
Mumbai 400 070

3.M/s.Kaira Microcredit Private Limited
Flat No.G-1, VIP Apartments
Lake Area Main Road
Melur Road
Uthangudi
Madurai 625 107 ...Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent Advanced Overlap Report) dated 18.06.2020 for members of the petitioner numbering 7,779- Hi Mark Credit Information Service describing them as “DELINQUENT” and quash the same and further direct the second respondent to comply with the Notification dated 27.03.2020 and 28.05.2020 issued by the first respondent.

For Petitioner : Mr.K.Subramanian
Senior Counsel for Mr.S.Ramesh
For 3rd Respondent : Mr.V.Ramakrishnan

O R D E R

Heard the learned Senior Counsel appearing for the writ petitioner.

2.The writ petitioner challenges the action of the second respondent in characterizing 7,779 persons as delinquents in their impugned credit information report.

3.The learned Senior Counsel appearing for the writ petitioner submitted that the persons who have been characterized as delinquents by the second respondent in their credit information report are clients of the petitioner trust. The petitioner trust is a credit institution. According to him, the petitioner is having locus standi to question the impugned report. He would place reliance on the decisions of the Hon'ble Supreme Court reported in ***AIR 1975 SC 2092 - (1975) 2 SCC 702 (Bar Council of Maharastra Vs. M.V.Dabholkar), (1976) 1 SCC 671 (Jasbhai Moti Bhai Desai Vs. Roshan Kumar Haji, Basheer Ahamed and others) and (2013) 4 SCC 465 (Ayyaubkhan Noorkhanpathan Vs. State of Maharashtra and others).*** He would further submit that this Court should approach the issue from a over all perspective of the entire statutory scheme as set out in the Credit Information Companies (Regulation) Act 2005. He took me through the relevant definitions and contended that the affected persons are very much clients of the petitioner and that therefore, in view of the code of conduct applicable to the credit institution, he would not able to disburse any financial assistance to them. The learned Senior Counsel's contention is that the petitioner's lending business would be affected seriously and that gives the petitioner locus standi to file this writ petition.

4. The learned Senior counsel also took me to the terms of announcement made by the Reserve Bank of India and also the judgment of the Hon'ble Delhi High Court in ***W.P (C) Urgent 5 of 2020 (Anant Raj Limited Vs.Yes Bank Limited)*** reported in ***2020 SCC Online Del 543.*** He submitted that in as much as the petitioner cannot act as provider for the affected individuals, he wanted this Court to uphold the maintainability of this writ petition.

5. I must straight away hold that the petitioner is not having any locus standi to question the impugned credit information report of the second respondent. The persons aggrieved can only be those borrowers who have been characterized as delinquents. The petitioner is not justified in invoking the terms of the code of conduct applicable to the credit institutions. The said code of conduct only states that the provider should not lend financial assistance to the persons who have been shown defaulters. Such information is only in the interest of the petitioner institution.

6.I am of the view that the impugned report does not affect the petitioner in any way. The petitioner can on the other hand be said to be benefited by the impugned credit information report. I find no ground to entertain this writ petition. This writ petition is dismissed *in limine* at the admission stage itself. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

msa

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Regional Manager,
Reserve Bank of India,
Fort Glacis,
No.16, Rajaji Salai,
Chennai-600 001.

+1 CC to M/s.V. RAMAKRISHNAN, Advocate (SR-14464[F] dated 19/08/2020)

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