

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-21231-2020(O&M)

Date of decision:16.12.2020

Gurpardeep Singh

.....Petitioner

Versus

The Governor, Reserve Bank of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Ms. Satinder Kaur, Advocate, for the petitioner

ANIL KSHETARPAL, J.

Through this writ petition under Article 226 of the Constitution of India, the petitioner has sought the following reliefs:-

“a) Directing the respondent No.2-4 not to seize the vehicle of the petitioner (Truck bearing RC No.PB05AL3058) being means of livelihood of the petitioner and to stop harassing the petitioner by the recovery agents & their musclemen stopping the vehicle (i.e Goods Carrier of NP) of the petitioner on the borders of each State for illegal seizure of the truck causing detriment to the business of the trucker to face such mental torture at unknown public places which tantamount to unfair, unconstitutional and violative of Articles 14, 21 & 300 A of the Constitution of India as well as against the Policy Guidelines on Fair Practice Code issued by the respondent No.1;

b) Issuance of directions to the respondent No.2-4 to accept the request (Annexure P-7) of the petitioner i.e to reduce the amount of

installments 25000 Rs. Each month for further months due to severe crises of Covid-19 situation.

c) To issue an order of interim stay of seizure of vehicle, until the present case.

d) Issuance of strict directions against respondent no.2 for violations of the directions as issued by the Hon'ble, the Supreme Court of India in **ICICI Bank vs. Shanti Devi Sharma and ors.** as reported in 2008 (3) GLH 4 and the directions issued in **Manager ICICI Bank Ltd. vs. Parkash Kaur** as reported in 2007 (2) SCC 711;"

At the outset, it must be noticed that the petitioner does not allege that the moratorium announced by the Reserve Bank of India has not been extended to the petitioner. In fact, on careful reading of notice (Annexure P-8) served upon respondents No.2 & 3, it is apparent that the benefit of the moratorium announced by the Reserve Bank of India for a period of six months has already been availed and the petitioner does not have any grouse on that count.

The petitioner got financed a trip trailer from respondents no.2 to 4, a non-Banking Financial Company, which is not owned or controlled by the Governments. Learned counsel for the petitioner in order to establish maintainability of the writ petition, relies upon a judgment passed by Karnatka High Court in **Velankani Information Systems Limited vs. Secretary Ministry of Home Affairs.** (Writ petition no. 6775 of 2020.)

This Court has carefully gone through the judgment passed by the Karnatka High Court. The aforesaid writ petition was filed during the period when extraordinary situation existed due to spread of

COVID-19 pandemic and there was lockdown and curfew all around. In the aforesaid writ petition, the petitioner has claimed that the banking institution is not extending the benefit of moratorium announced by the Reserve Bank of India. In that context, the Karnataka High Court entertained the writ petition.

This writ petition has been filed in November end and has come up for hearing in the second week of December. It is not in dispute that the respondents no.2 to 4 are neither State nor authority falling within the scope of Article 12 of the Constitution of India.

Hence, the writ petition under Article 226 of the Constitution of India is not maintainable.

Further, the petitioner alleges that instructions have been issued to re-possess his vehicle as the truck number has been put in the repossession list of defaulters. In the considered view of this Court, the remedy against the aforesaid action of the respondent is not a writ petition under Article 226. The petitioner has not even annexed the Hire Purchase Agreement between the parties.

Still further, it has been noticed that even before spread of COVID-19, five cheques issued for payment of EMI bounced.

Hence, the petitioner has been not regular in repayment.

Without delving into the merits of the case, it is considered appropriate to dispose of the writ petition by relegating the petitioner to the alternative remedy.

Disposed of.

16.12.2020

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Whether speaking/reasoned Yes /No

Whether Reportable Yes / No

(ANIL KSHETARPAL)
JUDGE