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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 13606/2019 & CM APPL. 55008/2019**

HEM SINGH BHARANA

..... Petitioner

Through: Mr. Apoorv Agarwal, Advocate

versus

IDBI BANK LTD.

..... Respondent

Through: Mr. Siddhartha Barua & Ms. Adity
Gupta, Advocates

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **23.01.2020**

1. Notice in this writ petition was issued on 23.12.2019. The respondent bank has given two weeks' time to file the counter affidavit. The counter affidavit has not been filed.
2. However, learned counsel for the respondent says that the order of the Identification Committee which was passed on 15.10.2018 was not furnished to the petitioner. Learned counsel, however, says that based on the record which is being filed by the petitioner, that a show cause notice was issued to the petitioner on 05.06.2018 to which a reply was filed by him on 19.07.2018. This reply was received by the respondent only on 24.07.2018.
3. The respondent bank gave its response on that very date vide communication dated 24.07.2018. *Via* this communication the petitioner was called upon to approach the respondent bank within three days, if he was desirous of being given a personal hearing by the Identification Committee.

3.1 It is stated on behalf of the respondent bank that the petitioner did not avail that opportunity and therefore, the Identification Committee proceeded to pass its order dated 15.10.2018.

4. The learned counsel for the petitioner says that the petitioner was given only three days to inform the Identification Committee as to whether or not he would want a personal hearing in the matter. According to learned counsel for the petitioner, the communication dated 24.07.2018 was received after the deadline of three days had expired.

4.1 *Qua* this aspect, the learned counsel for the respondent bank says that the communication dated 24.07.2018 was also hand delivered to the petitioner and, therefore, it may not be correct on the part of the counsel for the petitioner to contend that it was received by the petitioner after three days. In any event, learned counsel for the respondent bank says that the petitioner could have written to the respondent bank, and if he had done so, a date for personal hearing could have been fixed even beyond the timeframe of three days set forth in the letter dated 24.07.2018.

4.2 The learned counsel for the petitioner says that the petitioner was taken into judicial custody from 25.10.2018 and therefore, the hiatus in approaching the court.

5. Given the aforesaid contentions, it is clear that the petitioner had time between the date when he received the communication dated 24.07.2018 and 25.10.2018 to approach the respondent bank for being accorded a date for grant of personal hearing, assuming that he had received the letter after three days which, in any event, is a poor excuse for not making a request to the Identification Committee.

5.1 That being said, since the respondent concedes that the order of the Identification Committee dated 15.10.2018 was not served on the petitioner, and therefore, to that extent there has been a violation of principles of natural justice inasmuch as the petitioner's right to approach the Review Committee has been curtailed as expounded in the judgment of the Supreme Court in the matter of ***State Bank of India v. M/s. Jah Developers Private Limited & Others, AIR 2019, SC 2854***, wherein it has been, *inter alia*, held that 15 days are to be given in such situations to enable a wilful defaulter to approach the Review Committee.

6. Given this position, learned counsel for the respondent bank says that he is willing to furnish a copy of the order of the Identification Committee dated 15.10.2018. The learned counsel for the respondent bank further says that the petitioner would be afforded a 15 days window to make a representation before the Review Committee.

6.1 The statement of the counsel is taken on record.

7. It may be noted that a copy of the order dated 15.10.2018 has been furnished to the learned counsel for the petitioner. The petitioner will, thus, be at liberty to make a representation before the Review Committee within 15 days from today. The Review Committee will, thereafter, pass a speaking order; a copy of which will be furnished to the petitioner. In case, the Review Committee passes an order which is adverse to the petitioner's interest, he will have the liberty to take recourse to an appropriate remedy as per law.

8. Needless to add, the petitioner will be free to take all such relevant grounds in his representation which he may necessary to assail the order of the Identification Committee before the Review Committee. The Review Committee will consider all grounds before passing of an appropriate order on the representation of the petitioner.

9. The Review Committee will carry out the aforementioned exercise as expeditiously as possible, though, no later than two weeks from the date of receipt of a copy of this order.

10. The writ petition is disposed of in the aforesaid terms. Resultantly the pending applications shall stand closed.

RAJIV SHAKDHER, J

JANUARY 23, 2020
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