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

\+ W.P.(C) 5691/2020 and CM Nos. 20571-572/2020

RATUL PURI ... Petitioner

Through Dr.Abhishek Manu Singhvi, Sr. Adv. alongwith Mr.Vijay Aggarwal, Ms.Maneesha Dhir, Mr.Karan Batura, Mr.Avishkar Singhvi, Ms.Samprikta Ghosal, Ms.Barkha Rastogi and Mr.Shailesh Pandey, Advs.

Versus

STATE BANK OF INDIA & ANR. ... Respondents

Through Mr.Rajiv Kapur and Mr.Akshit Kapur, Advs. for Respondent No. 1 (SBI)

**CORAM:**
**HON'BLE MR. JUSTICE JAYANT NATH**

**<u>O R D E R</u>**

% **27.08.2020**

This hearing is conducted through video conferencing.

1. This writ petition is filed by the petitioner seeking a direction to quash the communication/notice dated 07.08.2020 issued by respondent No.1/Bank. Other connected reliefs are also sought.

2. The case of the petitioner is that the Company-Moser Bear India Ltd. was incorporated in 1983. The petitioner was appointed as a Director in 2001. On 16.11.2012, the petitioner is said to have resigned as a Director. It is also pleaded that the petitioner had earlier also resigned as an Executive Director. The account of the Company in question was declared as NPA in

2013. On 30.05.2016, the petitioner received a show cause notice from respondent No.1/Bank. A writ petition was filed in this court being W.P.(C) No.6412/2016 which was disposed of on 28.07.2016 with a direction to respondent No.1 to afford an opportunity of hearing to the petitioner before a final decision is taken. Subsequently, various show cause notices have also been issued. It is also the case of the petitioner that NCLT on 20.09.2018, has initiated liquidation proceedings against the Company in question and Mr.Anil Kohli has been appointed as a Liquidator. CBI has also registered an FIR against the Company and its directors including the petitioner in 2019. ED has also initiated proceedings accordingly. The petitioner was also arrested by ED. On 20.11.2019, respondent No.1 issued a notice for personal hearing before the Wilful Defaulter Identification Committee.

3. Now, the impugned notice has been issued on 07.08.2020 calling upon the petitioner and others for a personal hearing to make their submissions on 28.08.2020 through Video-Conferencing before the Identification Committee.

4. Learned senior counsel for the petitioner has submitted that the entire proceedings initiated to declare the petitioner as a wilful defaulter are misplaced and illegal and contrary to the Circular of RBI pertaining to declaration of wilful defaulters dated 01.07.2015. It is submitted that the petitioner had ceased to be a Director in 2012 and necessary statutory compliance including filing of Form 32 had duly taken place. The Stock Exchange, namely, BSE was duly intimated about the petitioner having resigned as a Director. The account has been declared as NPA in 2013. The entire proceedings are based on a balance sheet of 2014. Reliance is placed on Clause 3 of the Circular pertaining to declaration of a person as a wilful

defaulter dated 01.07.2015. It is pleaded that Clause 3 specifically provides that a wilful default has to be on behalf of the promoter/whole time director at the relevant time. The petitioner being neither a promoter nor a whole time director at the relevant time, it is pleaded, there is no jurisdiction with respondent No.1/Bank to deal with the case of the petitioner in terms of the Master Circular dated 01.07.2015.

5. Reliance is also placed on a judgment of a Coordinate Bench of this court in the case of ***Ratul Puri vs. State Bank of Patiala***, W.P. (C) No. 11923/2016 dated 20.12.2016. It is also pleaded that in these peculiar facts and circumstances and also keeping into account that on the same set of facts, criminal proceedings and civil proceedings have been initiated against the petitioner, it would be in the interest of justice that without prejudice to the fact that the notice itself is liable to be stayed, the petitioner should be allowed to be represented through a counsel.

6. Learned counsel for the respondent has opposed this petition. It has been pointed out that the petitioner has an alternate remedy of challenging the decision of the Wilful Defaulter Identification Committee before the Review Committee. Further, reliance is also placed on the judgment of the Supreme Court in the case of ***State Bank of India Vs. M/s. Jah Developers Pvt. Ltd. & Ors., (2019) 6 SCC 787*** to contend that the request for engaging a lawyer itself is misplaced and cannot be urged.

7. In these facts and circumstances, in my opinion, it would be appropriate for the petitioner to appear before the Wilful Defaulter Identification Committee of the Bank for a personal hearing which has been fixed for tomorrow. The petitioner may appear before the Wilful Defaulter Identification Committee and is free to raise all the submissions raised

herein before the said Committee.

8. At this stage, learned senior counsel for the petitioner states that the time to prepare for the personal hearing is very short as the hearing is to be held tomorrow.

9. Liberty is granted to the petitioner to appear before the Wilful Defaulter Identification Committee and make a request for a short adjournment to an appropriate date which is suitable to the said Committee. In case such a request is made, the Committee is requested to consider the same favourably.

10. Keeping into account the facts and circumstances of the case, especially, the fact that on the same facts multiple proceedings have been commenced against the petitioner, the petitioner is also given liberty to file written submissions within two weeks from today before the Wilful Defaulter Identification Committee.

11. I may also note that the Coordinate Bench of this court in the case of ***Ratul Puri vs. State Bank of Patiala,*** W.P. (C) No.11923/2016 on 20.12.2016 had passed the following directions:-

> "xxx
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> CM No. 47030/2016 (stay)
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> 1. Notice. Counsel for the respondent accepts notice. She seeks sand is granted three weeks' time to file a reply, with an advance copy to the other side, who may file a rejoinder thereto two weeks thereafter.
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> 2. Dr. Singhvi, learned Senior Advocate appearing for the petitioner requests that the order, if any, that may be passed by the respondent/Bank pursuant to passing the impugned order dated 1.12.2016, may not be placed in public domain.

> 3. Ms. Bajaj, learned counsel for the respondent Bank states that till the next date of hearing, the respondent Bank shall not make public any subsequent order passed by it against the petitioner pursuant to the impugned order dated 01.12.2016."

12. The Identification Committee may deal with the submissions of the petitioner as per law and pass an appropriate reasoned order. However any order passed by the said Committee shall not be placed in public domain for a period of four weeks. Further, a copy of the reasoned order shall be supplied to the petitioner after the Committee passes the same forthwith. Liberty is granted to the petitioner, if he is not satisfied with the order, to take steps as per law. This order is passed without prejudice to the rights and contentions of the parties.

13. With the above directions, the petition stands disposed of. Pending applications also stand disposed of.

**JAYANT NATH, J.**

**AUGUST 27, 2020/**st/rb