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

\+ W.P.(C) 5443/2018

MIHIR KUMAR BARDHAN RAY AND ANR ..... Petitioners

Through: Mr. Abir Phiikan and Mr. Ashkrit Tiwari, Advs.

versus

THE BANK OF BARODA AND ANR ..... Respondents

Through: Mr. Dhananjai Rana, Adv. for R-1.
Mr. Ravi Varma and Mr. Suadat Kirmani, Advs. for R-2.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

O R D E R

% **25.02.2020**

1. Counsel for the petitioner says that pursuant to the last order dated 3.12.2019, the Power of Attorney executed by petitioner No.2 was filed with the Registry on 22.1.2020 vide diary No.6009.

1.1 The Registry will have the same placed on record.

2. It is not disputed by the counsel for respondent No.1 bank (i.e. Bank of Baroda) that an internal investigation was carried out, which shows that lapses had, in fact, been committed by its own officials. This report is appended as Annexure A-6 to the counter affidavit filed on behalf of respondent No.1 bank.

3. The record shows that via order dated 29.7.2019, respondent No.1 bank was directed to take instructions as to whether any action has been taken against the officials, who were found guilty in an internal investigation.

4. I may indicate that the internal committee constituted by respondent

No.1 bank which carried out the investigation, *inter alia,* made the following observations concerning lapses committed by the officials:

“Lapses observed	*Observation of Zonal committee on staff accountability*
Bank's guidelines were not followed while entered/posted/verified the transactions made on the basis of email scanned letter	*For transactions initiated after 20.06.2014, we observe lapses on the part of branch officials as they have not followed the guidelines as advised vide circular no. HO:BR:l06:109 dated 20.06.14 (i.e not to entertain) request of fund transfer to third party received through fax, email or scanned letters).”*

5. Counsel for respondent No.1 bank submits that pursuant to what was observed by the internal committee, action has been taken against the delinquent officials.

5.1 The names and the action taken against the officials found responsible, as informed by counsel for respondent No.1 bank, is detailed out hereinabove:

> *“1. Ms. Puja Priyadarshni (Officer EC No.97867) – Reduction by 1 stage in time scale of pay for a period of 3 months without cumulative effect and not adverse affecting the officer’s pension, if opted for.*
> *2. Mr. Azad Singh Sharawat (Senior Manager EC no.37626) – Reduction by 1 stage in time scale of pay for a period of 6 months without cumulative effect and not adverse affecting the officer’s pension, if opted for.”*

6. I may also note that the Reserve Bank of India has , *inter alia*, made the following assertions, which are mentioned in paragraph 11 of its counter

affidavit:

> *"11. Subsequent to the letter dated November 22, 2006, Respondent No.2 had issued a circular titled "Transfer of funds on the basis of e-mail/fax messages-necessity of enhanced due diligence" dated September 28, 2016, wherein it was reiterated to banks to strengthen the mechanism put in place for fund transfer on the basis of e-mail/fax and adhere to it strictly, including contacting the customer over phone at his registered phone number to ensure genuineness of the request. True copy of Circular dated 28.09.2016 is annexed herewith and marked as Annexure R-4. Further, the Respondent No.1 had written to ICICI Bank and Axis Bank quoting the transactions referred in the instant case as "Suspicious" and had sought certain actions to be taken. If Respondent No. 1 is of the opinion that the transactions were of suspicious nature, it should have taken effort to confirm the same by conducting thorough investigation or by approaching law enforcement agencies. However, the Respondent No.l had filed a case with Deputy Commissioner of Police, New Delhi, only after the Petitioners have approached the State Consumer Disputes Redressal Commission, New Delhi."*

7. The aforesaid averments do demonstrate that apart from anything else, the officials of respondent No.1 bank were in breach of the internal guidelines framed by respondent No. 1 bank, which did not permit transfer of funds to a third party based on a request via email.

7.1 Admittedly, an amount of Rs.32.30 lakhs was transferred to third party accounts between May and September 2014 based on email request.

7.2 Furthermore, even though the petitioners had raised a red flag as far back as in September 2014, respondent No.1 bank filed a complaint with the cyber cell only on 19.9.2017.

8. Respondent No. 1 bank has failed to give any plausible explanation which would explain its procrastination in informing the law enforcement agencies with regard to subject "suspicious transactions".

9. Therefore, surely, there has been dereliction of duty by the officials of respondent No.1 bank.

10. That being said, since the petitioners have already approached the concerned State Consumer Commission, as noted in the very first order of this Court dated 21.5.2018, no further relief can be granted by this Court.

11. The petitioners are, however, given liberty to place the investigation report prepared by the internal committee of respondent No.1 bank as well as the orders passed by this Court before the concerned State Consumer Commission.

12. I am sure, the State Consumer Commission while disposing of the petition filed before it will take into consideration, apart from other material, the investigation report and order(s) passed by this Court.

13. The captioned writ petition is closed in the backdrop of the aforementioned observations.

RAJIV SHAKDHER, J.

FEBRUARY 25, 2020/pmc