11-02-2021
ct no. 13
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WPA 5016 of 2020
With
CAN 1 of 2020
Debasis Mukherjee
-Versus-
IDBI Ltd. & Ors.

Mr. Bhaskar Prosad Banerjee,
Mr. P. Baidya,
Mr. Partha Sarathi Das
...for the petitioner
Mr. L.K. Gupta,
Mr. Ranjay De,
Mr. B. Banerjee
...for the IDBI Bank Ltd.

The parties have advanced arguments on the demurer. Parties have used limited affidavits and have brought material on record.

Counsel for the Bank would argue in demurer fact that the Industrial Development Bank of India Limited which was originally a creature of a special statute, subsequently emerged as the IDBI Bank Ltd., a Government company under the Companies Act, 1956. The statute has since been repealed the majority shareholding in the IDBI Bank Ltd. is now with the Life Insurance Corporation of India. The Chairman of the LIC is ex officio non-executive whole time chairman of the IDBI Bank Ltd. Managing Director and CEO is nominated by

LIC. Two whole time Deputy Managing Directors are nominated by the LIC. One official nominee is also by LIC. Two nominated Directors are of the Government of India and aid rotational independent Directors are appointed by the shareholders in the General Meeting in terms of Section 149 (4) of the Companies Act of 2013.

The Central Government has no direct or even indirect control over the administration and management of the Bank. It is also argued that merely because banking is a public function and the bank is required to comply with the Directives of the Reserve Bank of India and under the Banking Regulation Act, 1949 as also the Reserve Bank of India Act, 1934, would not, bring it within the meaning of other authority under Article 12 of the Constitution of India.

The reliance is placed on the judgements already referred to in the order dated January 19, 2021.

Per contra, counsel for the writ petitioner would argue that by reason of the Life Insurance Corporation of India being directly under the control of the Central Government and the said LIC having majority share holding in the IDBI Bank, there is indirect control of the Central Government on the Bank. The Bank is required to follow the RBI directives as also the Banking Regulations Act and hence there is substantial public functions performed by the Bank.

It is further argued that by reason of the Act which repealed the Industrial Development Bank of India Act, certain obligations towards the employees were required to be maintained by the new entity i.e. the IDBI Ltd. Hence his claim can be agitated under Article 226 of the Constitution.

This Court has carefully considered the arguments of both sides as also the decisions relied upon and referred to in this Court's order dated January 19, 2021. The said decisions are ***Federal Bank Ltd. vs. Sagar Thomas and others*** reported in ***(2003) 10 SCC 733*** and ***Pradip Kumar Biswas vs. Indian Institute of Chemical Biology and others*** reported in ***(2002) 5 SCC 111.*** The said decision was followed in ***Zee Telefilms Ltd. Vs. UOI*** reported in ***(2005) 4 SCC 649*** and ***S.S. Rana Vs. Registrar Societies and Anr.*** reported in ***(2006) 11 SCC 634***. This Court has also considered the decision of the Supreme Court in the case of ***Thalappalam Service Cooperative Bank Ltd. and Ors. Vs. State of Kerala and Ors.*** reported in ***(2013) 16 SCC 82.***

The attention of this Court has drawn to the Division Bench judgment of the Bombay High Court in the case of ***Mrinmayee Rohit Umrotkar vs. Union of India and others*** being judgment dated December 8, 2020 passed in WP (L) No. 6704 of 2020 which dealt with the respondent Bank in particular. It was held in the said decision that a writ under Article 226 cannot lie against the IDBI Ltd. This Court is persuaded by the views expressed by the Division Bench of the Bombay High Court.

The decision of ***Rajbir Suraj Bhan Singh vs. Chairman, Institute of Banking Personnel Selection, Mumbai*** reported in ***(2019) 14 SCC 189*** is distinguishable on the facts particularly since the organization involved, there was an Institute of Banking Personnel.

The writ petitioner seeks enforcement of certain obligations that could definitely be deemed as statutory nature. The obligations being protection of certain service benefits which were available to those employed with the original statutory corporation and its subsequent avtar the IDBI Bank Ltd.

This Court is of the view that even enforcement of such obligations which have been ensured to employees like the writ petitioner of the IDBI Bank, should be viewed in the context of the legal status of the Bank as it stands today.

The writ petitioner's grievance is that non-compliance of the prior statutory obligations and the compliant of the writ petitioner in this regard to the Government authority has led to disciplinary proceedings. The same is denied by the counsel for the Bank.

The IDBI Bank Ltd., is clearly under the control of the LIC and not the Central Government. The cause of action of the writ petitioner even for the purpose of enforcement of prior statutory obligations against the IDBI Ltd. would not lie under Article 226 of the Constitution of India. The Central Government has little or no Administrative or financial control on the IDBI Ltd. The IDBI Ltd. in the opinion of this Court cannot come under the expression other authority under Article 12 of the Constitution of India.

For the reasons stated hereinabove, the instant writ petition is dismissed.

There shall be no order as to costs.

In view of the above, the connected application is disposed of.

It is made clear that this Court has not entered into the merits of the claim of the writ petitioner against the IDBI Ltd. The same may be decided by any forum of competent jurisdiction that the petitioner may choose to approach in accordance with law.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)