

09.09.2021.
Item No.105.
Court No.13
ap

**W.P.A. No. 12816 of 2021
(Through Video Conference)**

**Suman Bose
Versus
The Union of India & Ors.**

Mr. Souvik Dian.

..For the petitioner.

Mr. Arijit Bakshi.

...For the respondent no.1.

Mr. Kaushik Chatterjee,
Mr. Tirthankar Dey.

...For the respondent nos.5 & 6.

Affidavit-of-service filed in Court today be taken
on record.

The writ petitioner challenges an order of the
Ombudsman rejecting his grievance and complaint
against NBFC, namely, Bajaj Finance Limited.

It is found by the Ombudsman that the
petitioner is not eligible for loan restructuring as per
the Reserve Bank of India Circular dated 5th May,
2021.

It is argued by the Counsel for the petitioner
that the Finance Company ought to have considered
the applicability of the petitioner under Circular of the
Reserve Bank of India of 6th August, 2020 and not 5th
May, 2021.

This Court notes on the submission of the NBFC
that the writ petitioner's account was already declared

as Non-Performing Asset and in default since November, 2019.

A plain reading of the aforesaid Circular of 6th August, 2020 would indicate that the loan account of the petitioner is required to be standard and not in default as on the date of which moratorium or restructuring is sought.

This Court does not find any infirmity with the order of the Ombudsman.

In any event, notwithstanding the order of the Ombudsman, the writ petitioner may challenge the actions of the NBFC in an appropriate civil or other contractual forum.

Counsel for the NBFC submits that arbitration Clause has already been invoked and proceedings are pending in which the writ petitioner has not participated. The writ petitioner has participated in one of such arbitration proceeding.

In that view of the matter, no relief can be granted to the writ petitioner in this writ petition.

Accordingly, the instant writ petition must fail and hereby dismissed.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

