12.04.2021.
Item no. 37.
Court No.13
pk

W.P.A. No. 8800 of 2020
(Through Video Conference)

Niloy Ganguly
Versus
Axis Bank & Ors.

Mr. Ajay Debnath,
Mr. Sujit Saha,
Mr. Debranjan Das,
Mrs. Swagata Datta
… for the petitioner .

Mr. Soumya Majumder,
Mr. S. Dutt Majumder,
Ms. Varsha Dudhwewala
…for the Bank.

Ms. Mary Datta
… for the respondent no. 4.

The writ petitioner was functioning as Deputy Manager of the Axis Bank at Asansol Branch. He was dismissed from service after issuance of show cause notice. The sum and substance of the charge against him was that he had received from unauthorised persons unexplained sum of money and the same was deposited at the bank. The KYC norms are stated to have been violated.

Counsel for the Bank, Mr. Majumder raises the question of maintainability. He submits that a writ under Article 226 of the Constitution of India cannot lie against Axis Bank. He relies upon an unreported decision of this Bench dated 11.02.2021 in the case of **Debasis Mukherjee Versus IDBI Ltd. and others** passed in **WPA 5016 of 2020** and a decision of the Division Bench of the Bombay High Court in the case of **Mrinmayee Rohit Umrotkar Versus Union of India and others** reported in **2020 SCC Online BOM 3664**.

This Court had called upon the Bank to file an affidavit in support of demurrer. Such affidavit has been filed. It transpires that the Axis Bank is a listed public limited company. 59.55 per cent of its shares are held by foreign investors, 26.86 per cent by Indian investors and the balance 13.59 per cent is held by private individual promoters and/or institutions.

The company is controlled by Board of Directors and is under the Companies Act, 2013 duly registered under the Companies Act, 1956.

The funds of the Bank are generated inter alia out of shareholders' contribution and deposits as bonds and debentures subscribed by both Indian and foreign entities and/or individuals.

The Board of Directors comprises of individuals who are not public institutions. The entire decision making process of the Bank is by the Board of Directors under the provisions of the Companies Act, 2013.

This Court does not see any Government participation or the control and management or the finances of the respondent Axis Bank Limited.

Counsel for the petitioner would argue that the Axis Bank is required to pay taxes to the CBDT, and disburses pension to its employees in a manner similar to public institutions and pays expenses of Central Government Ministers and Department and State taxes also.

The aforesaid facts, even if true, by themselves, cannot bring the Axis Bank under any of the authorities conceived of under Article 12 of the Constitution of India.

The next argument by the counsel for the petitioner that Axis Bank is required to function in terms of the Banking Regulation Act, 1949. The Bank functions under licence issued by the Reserve Bank of India.

The issue raised by the counsel for the petitioner has been specifically dealt with by the Supreme Court, in **Akalakunnam Village Service Cooperative Bank Ltd. Vs. Binu N & Ors.** reported in **(2014) 9 SCC 294**. Mere control and monitoring and application of the Rules of the Reserve Bank of India and the Banking Regulation Act would not render an institution particularly a Bank within the meaning of Article 12 of the Constitution of India.

Reference in this regard is also made to the decisions of **Federal Bank Ltd. Vs. Sagar Thomas** reported in **(2003) 10 SCC 733**, **S.S. Rana Vs. Registrar, Cooperative Societies** reported in **(2006)**

11 SCC 634, **Pradeep Kumar Biswas Vs. Indian Institute of Chemical Biology** reported in **(2002) 5 SCC 111**.

For the reasons stated herein above, the writ petition must fail and is hereby dismissed.

The petitioner may, however, agitate his grievances against the Bank before any civil or any other forum in accordance with law.

There will be no order as to costs.

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

(*Rajasekhar Mantha*, J.)