

Daily List 6
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January 20,
2021

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
(Via Video Conference)**

W.P.A. No. 10487 of 2020

**Bagrajsini Krishi Bhandar Private
Limited and others
Versus
Bank of Baroda and others**

Mr. Abhishek Dutt.
...for the petitioners.

Mr. Dipanjan Datta,
Mr. Atanu Basu,
Mr. Udatta Ganguly.
...for the respondent nos.1 to 3.

The petitioners have challenged a show-cause notice issued to the petitioners by the Zonal Head of the Bank of Baroda under Clause 3 of the Reserve Bank of India Circular dated July 1, 2015, for the purpose of hearing the petitioners in the matter of identification of wilful defaulters.

Learned counsel for the petitioners cites a judgment rendered by a co-ordinate Bench on February 5, 2019 in WP 1400(W) of 2019 (*Sudhir Kumar Patodia and another Vs. Union Bank of India and others*) for the proposition that the show-cause notice has to be issued by the Wilful Defaulter

Identification Committee; in case of deviation, the show-cause notice is vitiated.

Learned counsel submits that the Zonal Head of the Bank, who authored the show cause notice, does not fall within the purview of the constituent members of a Wilful Defaulter Identification Committee, as is contemplated in Clause 3 of the Reserve Bank of India Circular.

That apart, learned counsel submits that the documents, on which the respondents rely for the purpose of holding the petitioners wilful defaulters, were not supplied to the petitioners. As such, the petitioners would be handicapped in giving comprehensive representation to such show-cause notice.

Learned counsel places reliance on another co-ordinate Bench judgment dated March 3, 2020 passed in WPA 322 of 2020 (*Mahakal Agro Storage and Processing Unit Private Limited and others Versus Indian Overseas Bank and others*) in such context.

Learned counsel appearing for the respondent-authorities submits at the inception that the first judgment cited by the petitioners, that is, *Sudhir Kumar Patodia* (supra) was set aside by a Division Bench of this Court on February 28, 2020 in MAT 787 of 2019.

As regards the show-cause notice impugned in the writ petition, learned counsel for the respondents contends that the said notice was issued on behalf of the Wilful Defaulter Identification Committee and, as such, is within the purview of Clause 3 of the Reserve Bank of India Circular of 2015. As far as the other contention of the petitioners is concerned, learned counsel submits that the petitioners already appeared before the Wilful Defaulter Identification Committee on the basis of the impugned show-cause and have been declared wilful defaulters by the said Committee. As such, it is submitted that the entire exercise has become infructuous.

Upon considering the submissions of the parties, it is evident from the impugned show-cause notice dated September 1, 2020 (Annexure P/1 at page 18 of the writ petition) that the author of the notice only acted as per the directions of the Committee of the executives on wilful defaulters of the Bank of Baroda. As such, the first contention of the petitioners is turned down. The notice was in consonance with Clause 3 of 2015 Circular and, as such, cannot be faulted.

As regards the second submission of the petitioners, regarding non-supply of documents, although the challenge to the show-cause notice has

virtually become infructuous, the petitioners are always at liberty to approach the Review Committee in the event the petitioners are aggrieved by the decision of the first committee. As such, it would be appropriate if the Bank served copies of the relevant documents, on which the Wilful Defaulter Identification Committee relied in holding the petitioners wilful defaulters, at the earliest.

Accordingly, WPA 10487 of 2020 is disposed of by directing the respondent no.1 to furnish copies of all relevant documents relied on by the Wilful Defaulter Identification Committee for holding the petitioners to be wilful defaulters to the petitioners, positively within four days from date, to enable the petitioners to represent their defence appropriately before the Review Committee.

There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)