ORDER SHEET
WPO NO. 10 OF 2021
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

M/S. R.K. CELLULAR TRADE PVT. LTD.
Versus
UNION OF INDIA & ORS.

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date : 4th February, 2021

Appearance :
Mr. Aditya Dutta,
Mr. Akash Dutta, Advs.,
for the petitioner.

The Court : Despite service, none appears for the respondents. Affidavit of service filed in Court today be kept with the record.

The petitioner, which is running a business of electrical mechanical vehicles (commonly known as “Toto”), applied for a loan from the respondent no.4. Subsequently, in view of pandemic situation, the petitioner applied for restructuring of the loan and ultimately approached respondent no.2, that is, Non-Banking Financial Companies Ombudsman, Kolkata, Reserve Bank of India, for resolution of the issue of restructuring of loan.

However, by the impugned order dated December 8, 2020 (Annexure P-7 at page 28 of the writ petition), the Ombudsman closed the petitioner’s complaint under clause 13(1)(a) of the Ombudsman Scheme for Non-Banking Financial Companies, 2018, issued by the Reserve Bank of India. Learned Counsel argues that clause 13(1), clause (a) contemplates rejection of a complaint at any stage by the Ombudsman if it appears to him that the complaint made is not on the grounds of complaint referred to in Clause 8 of the Scheme.

It appears that the complaint lodged by the petitioner, as rightly argued by learned Counsel for the petitioner, squarely falls within the purview of Clause 8, sub-clause (l) of the said Scheme of 2018. The said sub-clause provides that any person may file a complaint with the Ombudsman having jurisdiction on the ground of non-observance of directions issued by Reserve Bank of India to the Non-Banking Financial Companies.

The Scheme, as it appears from the connected notification dated February 23, 2018, is for the purpose of enabling the Reserve Bank of India to promote conducive commercial culture among the Non-Banking Financial Companies and to regulate the credit system of the country to its advantage and, for that purpose, to provide for a system of Ombudsman for redressal of complaints against deficiency in services concerning deposits, loans and advances and other specified matters. Within the broad spectrum of the Scheme, the Ombudsman has ample powers to call for information and for settlement of complaint by agreement. In the event of failure by the parties to reach a settlement, the Ombudsman may, under Clause 12 of the Scheme, upon affording the parties reasonable opportunity to present their case, to pass an award either allowing or rejecting the complaint.

In the present case, however, although the petitioner's complaint is covered by Clause 8(1)(l) of the Scheme, the Ombudsman did not enter into the merits of the matter but merely rejected the same on the ground as contemplated in

Clause 13(1)(a), which is contrary to the records. As such, the impugned order cannot withstand judicial scrutiny.

Accordingly, WPO 10 of 2021 is allowed, thereby setting aside the impugned order dated December 8, 2020 (Annexure P-7 at page 28 of the writ petition). The Ombudsman, that is, respondent no.2, is directed to take up the complaint of the petitioner now on merits and, upon exploring the possibility of settlement by agreement, to proceed further to decide the matter on merits, if no agreement is reached, within a reasonable period.

No order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

S.Das
AR[CR]