

ORDER SHEET
WPO NO. 33 OF 2021
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

POOBONG PLANTATION PVT. LTD. & ANR.
Versus
UNITED BANK OF INDIA & ORS.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 4th February, 2021

Appearance :

Mr. Amalesh Roy,
Mr. S. Rudra, Advs.,
for the petitioner.

Mr. Arif Ali,
Mr. Prabhat Kumar Srivastava,
Ms. Debarati Das, Advs.,
for the respondent.

The Court : The petitioners run a tea estate and approached the United Bank of India, being the respondent no.1, applying for a loan under a specific scheme.

Vide order dated July 7, 2020, as communicated to the petitioners (Annexure P-5 at page 75 of the writ petition), such request of the petitioners was rejected on the ground that the petitioners had negative NWC (Net Worth Credit) and that the account of the petitioners was continuously in excess of the stipulated limit.

Learned Counsel for the petitioners submits that the petitioners had no deficiency in that regard and made a representation before the Union Bank of India on December 9, 2020 explaining the stand of the petitioners and its contention that NWC was maintained appropriately by the petitioners at all

relevant junctures. The grievance of the petitioners is that such representation was not considered.

Learned Counsel appearing for the respondent no.1 submits that the petitioners' application to get the benefit of the scheme in question was rejected on several grounds. One of such grounds was not maintaining NWC. However, it was seen from the records that the account of the petitioners was already classified as NPA (Non-Performing Asset) at the relevant point of time as well. As such, the rejection was justified, according to the respondent no.1.

A perusal of the impugned order dated July 7, 2020 discloses non-maintenance of adequate NWC as the only ground for rejection of the petitioner's request for loan.

Since the respondent no.1 discharges public functions, there has to be a transparency in its decision-making process, even while rejecting an application for loan under a particular scheme. In the present case, no opportunity of representation was given to the petitioners prior to the rejection order to satisfy the respondent no.1 as regards the petitioners having maintained adequate NWC. Even if there were other grounds for such rejection, those are not reflected at all from the rejection order.

In order to grant comprehensive relief to the petitioners in such circumstances, the writ court has ample power to mould the reliefs sought in the the writ petition. In the present case, the consideration of a subsequent representation of the petitioners by the respondent no.1, would serve no purpose in view of the specific contention of the respondent no.1 that there were other grounds for rejection as well, although not disclosed in the order of rejection.

In such view of the matter, WPO 33 of 2021 is allowed, thereby setting aside the rejection of the petitioner's loan application, as communicated vide order dated July 7, 2020 to the petitioners (Annexure P-5 at page 75 of the writ petition) and directing the respondent no.3 to consider such application for loan afresh, upon an opportunity being given to the petitioners to deal with all the grounds taken by the respondent no.3 for such rejection. The respondent nos. 1 and 3 shall, accordingly, communicate the proposed grounds of rejection of the petitioners' loan application to the petitioners within February 8, 2021. The petitioners shall file its representation, along with all relevant documents, if any, to the respondent no.1 for controverting such grounds, by February 15, 2021. The respondent no.3 shall reconsider the request for loan upon considering the representation of the petitioners, along with all relevant documents furnished by the petitioners, by February 25, 2021 and communicate such decision to the petitioners immediately thereafter. The parties are to act on the server copy of this order and/or communication by learned Advocates without insisting upon prior production of a certified copy.

No order as to costs.

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

(SABYASACHI BHATTACHARYYA, J.)