ORDER SHEET
W.P.O. No. 129 of 2021
IN THE HIGH COURT AT CALCUTTA
Special Jurisdiction (Contempt)
ORIGINAL SIDE

Pryajit Bose
Versus
HDFC Bank Ltd.

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date : 8th April, 2021.

Mr. Priya Sankar Bose, in person,
… for petitioner

Ms. Soni Ojha, Adv.
… for respondent

Mr. Priyo Sankar Bose, the father of the petitioner Priyajit Bose, as well as the constituent attorney of the latter, appears in person and moves the matter. The defects pointed out by the department may be overlooked since those are technical in nature and do not impede the Court to exercise its jurisdiction under Article 226 of the Constitution of India.

The primary grievance of the petitioner is that, despite the petitioner holding standard accounts, both pertaining to Personal Loan taken by him as well as Credit Card Loan, the respondent bank is bent upon declaring the accounts as NPA (Non-Performing Assets).

Mr. Bose further submits that the petitioner was suffering from Covid-19 as well Kidney Stone during the relevant period, which prevented the petitioner from repaying the instalments in time. However, Mr. Bose relies on Reserve Bank of India Circulars dated March 27, 2020 and August 8, 2020 to argue that the petitioner is entitled to the reliefs provided to the borrowers thereunder. The petitioner is thus aggrieved by the refusal of the respondent bank to entertain the restructuring request of the petitioner at the outset by holding that the petitioner was ineligible to get the benefit of the RBI Directives.

Learned Counsel appearing for the respondent bank submits at the outset that there is an equally efficacious alternative remedy available to the petitioner by way of an application before the Banking Ombudsman. That apart, it is submitted on behalf of the bank, the petitioner already sought to avail similar remedy before the District Consumer Forum and such application having not been admitted by the said forum, the petitioner preferred a challenge before the Appellate Authority, which is still pending.

Learned Counsel for the bank then contends that the petitioner cannot go forum shopping by seeking the same redressal before various authorities/Courts.

Upon a consideration of the nature of the challenge in the writ petition, it appears that the writ petitioner made requests for restructuring of the loans-in-question before the respondent bank upon annexing certain documents to substantiate petitioner's clam. Since the bank, by its impugned decision, rejected such request on merits, holding that the petitioner was ineligible as per the RBI Directives, the matter squarely pertains to the domain of the Banking Ombudsman as envisaged under Clause 8 of the Banking Ombudsman Scheme, 2006.

As such, since an equally efficacious alternative remedy is available to the petitioner, I choose not to entertain the writ petition for hearing on merits.

Accordingly, W.P.O. No. 129 of 2021 is dismissed on the ground of maintainability with liberty to the petitioner to approach the Banking Ombudsman with the challenge ventilated in the present writ petition at the earliest.

If such an approach is made, the Banking Ombudsman shall decide upon the same without being prejudiced in any manner whatsoever by any of the observations made in this order and will decide the challenge in accordance with law on its own merits.

There will be no order as to costs.

Parties are to act on the server copies of this order without insisting on prior production of certified copy thereof.

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

(SABYASACHI BHATTACHARYYA, J.)

K. Banerjee
A.R. [C.R.]