Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 955 OF 2021

Mr.Rohit Ramnath Katyal .. Petitioner
Vs.
Reserve Bank of India and ors. .. Respondents

Mr.Janak Dwarkadas, Sr. Advocate a/w Ms.Fereshte Sethna, Mr.Aniket Nimbalkar, Ms.Aboli Mandlik i/b DMD Advocates, for the Petitioner.
Mr.Venkatesh Dhond, Sr. Advocate a/w Mr.Prasad Shenoy, Ms.Aditi Phatak, Ms.Kirti Ojha & Ms.Parichehr Zaiwalla i/b Udwadia & Co., for Respondent No.1.
Mr.Siddha Pamecha i/b Thodur Law Associates, for Respondent No.2.
Mr.N.D.Sharma, for Respondent No.3 - Union of India.

CORAM : S.C.GUPTE &
M. S.KARNIK, JJ.

DATE : 22nd JUNE, 2021

P.C. :

. Heard learned Counsel for the Petitioner and learned Counsel for Respondent No.2 – Bank, which has declared the Petitioner as a 'wilful defaulter' under the Master Circular on Wilful Defaulters dated 01/07/2015.

2. The controversy in this Petition concerns the

Petitioner's status as a wilful defaulter in accordance with the Master Circular. It is clear from the facts of the case that though the Petitioner had made a representation in response to a show cause notice issued to him at the stage of the decision of the Identification Committee under the Master Circular, and despite the Bank having decided to give a personal hearing before acting on the show cause notice and declaring him to be a wilful defaulter, no notice could be served on the Petitioner, perhaps due to change of his address, which, in any event, was admittedly communicated by him to the Respondent - Bank. What has followed as a result is that the Petitioner was not even informed about the decision of the Identification Committee and therefore lost an opportunity to make a representation before the Review Committee under the Master Circular. The Petitioner claims to have come to know of his status as a wilful defaulter only when he saw a notification in that behalf on a website. What further emerges from the record is that pursuant to the Petitioner's representation made post the Review stage, he is now being given a hearing. This hearing is before the Identification Committee, and thus, a first stage hearing, which, the Court is informed, has since been completed.

3. In these facts, the hearing now given to the

Petitioner deserves to be treated as an *Ex post facto* hearing. The Respondent Bank may now take an appropriate decision on the Petitioner's representation. It is ordered accordingly. Till then, the order passed by this Court on 19/05/2021 inter alia recording an earlier direction and understanding between the parties, requiring Respondent No.2 - Bank to refrain from taking further steps in the matter and/or passing any further orders so that the Petitioner is not presented with *fait accompli,* shall continue to operate. It is, however, clarified that this order does not come in the way of Respondent - Bank passing a fresh identification order in response to the hearing given to the Petitioner.

4. Considering that the present hearing and the order to be passed by the Identification Committee based on it is the first stage and that in the event of an adverse order, the Petitioner has an opportunity of approaching the Review Committee within 15 days from communication of the first order, we also make it clear that the understanding, recorded and continued as above, shall continue for a period of two weeks from the date of order of the Identification Committee being communicated to the Petitioner. It is ordered accordingly.

5. The Petition is disposed of in the above terms. All rights and contentions of the parties on merits are kept open.

(M.S.KARNIK, J.) **(S.C.GUPTE, J.)**