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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:15.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.4822 of 2019
and
W.M.P.No.5477 of 2019

P. Balasubramanian

... Petitioner

Vs

1. Union of India
Rep by its Secretary
Ministry of Finance,
Department of Financial Services,
3rd Floor, Jeevan Deep Building,
Sandad Marg, New Delhi-110001.
2. The Reserve Bank of India,
Rep by Chief General Manager,
Department of Banking Regulations,
Central Office, Central Office Building,
13th Floor, Shahid Bhagat Singh Marg,
Fort, Mumbai-400 001.
3. Indian Bank,
Rep by Chairman cum Managing Director,
Corporate Office,
No.254-260, Avvai Shanmugamsalai,
Chennai-600 014.
4. The Zonal Manager,
Indian Bank Zonal Office,
Cuddalore.
5. The Branch Manager,
Indian Bank-Vennaiyur Branch, (1023)
Vennaiyur Village,
Kattumannar Koil Taluk,
Cuddalore District-608302.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue appropriate Writs, Orders or Directions and in particular a Writ in the nature of a Declaration declaring the action of the respondents 3 and 4 in proposing to closing down



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the 5th respondent branch, and to shift the same from its existing village to another village as illegal, arbitrary and opposed to the Reserve Bank of India guidelines.

For petitioner : Mr. N.G.R. Prasath

For Respondents : Mr.J. Madanagopal Rao for R1,
Central Govt Senior Counsel
: Mr. C. Mohan for R2
: Mr. Jeyesh Dolia for R4 & R5.

ORDER

The petitioner has filed this Writ petition seeking issuance of appropriate Writs, Orders or Directions and in particular a Writ in the nature of a Declaration declaring the action of the respondents 3 and 4 in proposing to closing down the 5th respondent branch, and to shift the same from its existing village to another village as illegal, arbitrary and opposed to the Reserve Bank of India guidelines.

2. The case of the petitioner is that he is a permanent resident of Vennaiyur village consisting of 300 families who is one of the customers of the 3rd Respondent Indian bank which is the only nationalized commercial bank having its branch in the village which consists of 3000 account holders. Further it is the only branch fulfilling the banking needs of the nearby villages and now the Respondents 3 & 4 are taking steps to shift/close this branch to another village or any other place. However if the 5th respondent branch is shifted to some other place, the account holders will have to face difficulty to fulfil their banking needs since it is the only branch available in the village which is also utilized by the other nearby villages. Such being the case, steps are taken by the 5th respondent vennaiyur branch to shift the branch from vennaiyur village to some other place without informing its customers. Therefore, the petitioner made a representation to the 3rd respondent with regard to the issue, however, till date no action has been taken on his representation. Hence, the present Writ Petition is filed seeking the above relief.

3. The learned counsel for the petitioner submits that the 5th respondent branch is the only nationalized bank available in the Vennaiyur village and if that branch is shifted or closed, the villagers will be put to great hardship to carry out any banking transaction.

4. Further, learned counsel for the petitioner placed his reliance on Sec 23(1) of the Banking Regulation Act, 1949 which states that the banks shall not change the place of branch



without prior approval of the RBI. Further, the learned counsel submits that RBI has issued circular dated 06.08.2015 in which clause 3(ii) of the circular states that merger or closure of any rural branch would require approval of the District Consultative Committee and as per clause 3(iii) of the circular, it is mandatory for any bank to inform the customers regarding the shifting or closure of the branch. However, the 5th respondent branch without following any of the rules laid down by RBI, taking steps to shift the branch from said village to some other place is not sustainable. Hence the present Writ Petition is filed.

5. The learned counsel for the respondents submits that as 23(2) of the Banking Regulations Act, 1949, the Reserve Bank may required to be satisfied by an inspection under section 35 and if such an inspection is carried out by the Reserve Bank, it is permissible for the banks to shift any branch from one place to another. Hence, the respondent bank after satisfying the conditions laid down by RBI, is taking steps to shift the 5th respondent branch from said village to some other place. Therefore, no interference is called for in the said process being carried out by the 5th respondent branch. Hence, the present Writ petition filed by the petitioner herein is liable to be dismissed.

6. A perusal of the materials available on record reveals that in the year 2004, taking into consideration the necessity for a bank in the village, the respondent bank was opened and it has been functioning since then and many of the villagers in the locality are customers at the bank. All the transactions are being carried on by the villagers in the said bank. Further, it is evident from the record that but for the respondent bank, no other banks are in the vicinity of the said village.

7. In the aforesaid background, the respondent bank has taken the step for relocating the branch out of the said village. The representation given by the petitioner in this regard has since been unattended and no orders have been passed.

8. Be that as it may. The main contention of the respondent is that the relocation is being done after duly following Rule 23 of Banking Regulation Act, 1949. In this regard, a perusal of Rule 23 reveals that prior approval of RBI is required in the matter relating to opening of a new branch, relocating the branch, etc. More precisely Rule 23 (2) deals with the above and in the said rule, it is the mandatory prescription that an inspection should be conducted by RBI on the request of the concerned bank and, thereafter, orders are to be passed by RBI on the application of the respective bank.

9. However, in the case on hand, though the respondent



bank claims that the requirements mandated under Rule 23 of Banking Regulation Act, 1949 has been complied with, yet, no material is available in the typed set of documents to show that the said provision of law has been complied with. In such a backdrop, it was incumbent on the respondent bank to have complied with the said rule and also informed the same to the petitioner by disposing of his representation. However, the representation has not been disposed of nor any material to show the compliance of Rule 23 has been filed. In the said backdrop, the only inference that could be drawn by this Court is that there is no full compliance of Rule 23.

10. In the aforesaid backdrop, this Court is inclined to dispose of this petition by directing the bank to consider the representation of the petitioner in accordance with law and pass orders on the said representation within a period of 24 weeks from the date of receipt of a copy of this order. It is further made clear that without obtaining the requisite permission from RBI as mandated under Rule 23, the respondent bank shall not carry out relocation of the branch and if any permission has been obtained, the same shall be made available to the petitioner while considering the representation and in such a scenario, liberty is granted to the petitioner to challenge the said permission granted by RBI in accordance with law.

11. Accordingly, this Writ Petition is disposed of . No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

NHS

To

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2. The Reserve Bank of India,
Rep by Chief General Manager,
Department of Banking Regulations,
Central Office, Central Office Building,



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Vennaiyur Village,
Kattumannar Koil Taluk,
Cuddalore District-608302.

+1cc to Mr.L. Parvin banu, Advocate, S.R.No.58478
+1cc to Mr.King and Patridge, Advocate, S.R.No.58548
+1cc to Mr.Aiyar & Dolia, Advocate, S.R.No.58699

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W.M.P.No.5477 of 2019

JPL(CO)
CT 07/12/2021