BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.04.2022
CORAM:
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE
W.P.[MD]No.7835 of 2022
and
W.M.P[MD]Nos.5891 & 5893 of 2022

S.Muthuraja,
Proprietor,
Sri.Lakshmi Traders,
415, P.K.S.A.Arumugam Road,
Sivakasi, Virudhunagar District. ... Petitioner

Vs.

1.The Ombudsman,
Centralised Receipt and Processing Centre (CRPC),
C/o Reserve Bank of India,
Banking Office, Fort Glacis,
Rajaji Salai, Chennai-600 001.

2.The Zonal Manager,
Indian Bank, Zonal Office,
345/3, Church 1st Street,
4 D Scan Complex 1st Floor, Karaikudi-630 001.

3.The Branch Manager,
Indian Bank, SME Branch,
Sivakasi Town, P.K.S.A.Arumugam Road,
Sivakasi, Virudhunagar District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order RBI / CMS / N202122006025508 / 2021-22 dated 04.03.2022 passed by the first respondent herein and quash the same and consequently direct the respondent Nos.2 and 3 to restructure the petitioner's Account No.658948585 in the third respondent Bank according to the RBI guidelines resolution 2.0 on RBI/2021-22/32 DOR STR.REC.12/ 21.04.048/2021-22 dated 05.05.2021.

For Petitioner	:	Mr.C.Meenakshi Ramaprabhu
For R-2 & R-3	:	Mr.R.Pandivel Standing Counsel

O R D E R

This writ petition has been filed challenging the order dated 04.03.2022 passed by the first respondent rejecting the petitioner's application seeking for re-structuring the loan as per the RBI guidelines dated 05.05.2021.

2.The petitioner has challenged the impugned order on the ground of violation of principles of natural justice. According to the petitioner, he has satisfied all the conditions required for re-structuring of the loan as per the aforementioned RBI guidelines. However, according to the petitioner, arbitrarily, without affording any opportunity to the contentions raised by the Bank in their reply, the impugned order has been passed rejecting the petitioner's application by a non-speaking order.

3.According the petitioner, the first respondent has not followed the procedure as contemplated under the Integrated Ombudsman Scheme, 2021. It is also contended by the petitioner that the third respondent's contentions before the first respondent that they had visited the petitioner's factory and inspected the machinery is false. It is contended by the petitioner that they were not granted any opportunity to submit an explanation to the third respondent's reply by the first respondent. According to the petitioner, on the crucial date fixed for restructuring, the petitioner was within the eligibility criteria.

4.Heard Mr.C.Meenakshi Ramaprabhu, learned Counsel appearing for the writ petitioner and Mr.R.Pandivel, learned Standing Counsel who accepts notice on behalf of the respondents 2 and 3.

5.Learned Standing Counsel, on instructions would submit that the petitioner has not satisfied the eligibility criteria for restructuring of the loan. According to him, even on the date of the application submitted by the petitioner for restructuring as per the RBI guidelines, the petitioner was already declared as an NPA. It is also contended by the petitioner that during Covid-19 pandemic the petitioner was granted additional loan which will have to be re-paid within a period of one year. According to the learned Standing Counsel, the petitioner has not repaid the loan within a stipulated time. Hence, according to him, the first respondent has rightly rejected the petitioner's application seeking for restructuring of the loan on the ground that the petitioner has not satisfied the eligibility criteria. Further, he would contend that at the time when the officials of the bank went to the petitioner's premises for inspection, the godown was also locked and the unit was also not functioning.

6.The submissions made by the learned Standing Counsel for the bank is vehemently disputed by the learned Counsel for the petitioner.

7.This Court has perused and examined the impugned order of the first respondent rejecting the petitioner's application seeking for restructuring of the loan. As seen from the impugned order, except for extracting the contents of the reply sent by the bank, the first respondent has not given its independent reasoning based on the contentions of the petitioner as well as respondent bank and based on the documents produced before it. The petitioner has challenged this writ petition only on the ground of violation of principles of natural justice. It is his contention that no opportunity was granted by the first respondent to submit a rejoinder to the reply submitted by the bank before the first respondent. According to the petitioner, the contentions of the respondent bank before the first respondent are not true.

8.Further, according to the learned Counsel for the petitioner, the petitioner's unit is functional and it is still running. It is also contended that the respondent bank never inspected the petitioner's unit as mentioned in the reply filed before the first respondent. Admittedly, the petitioner has not been granted any opportunity to submit a rejoinder to the reply submitted by the bank before the first respondent. It is also not sure as to whether a copy of the reply submitted by the bank was furnished to the petitioner in the impugned proceedings as the petitioner has contended before this Court that the same was not furnished to him.

9.Since no independent reasons have been given by the first respondent with regard to the contentions raised by the petitioner, this Court is of the considered view that the order dated 04.03.2022 passed by the first respondent is a non-speaking order. The petitioner has also not been afforded an opportunity to submit a rejoinder to the reply submitted by the bank before the first respondent.

10. For the foregoing reasons, on the ground that the impugned order is a non-speaking order and is an order passed by violating the principles of natural justice, this Court is of the considered view that the impugned order dated 04.03.2022 passed by the first respondent has to be necessarily quashed and the matter has to be remanded back to the first respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioner as well as the respondents 2 and 3.

11. In the result, the impugned order dated 04.03.2022 is hereby quashed and the matter is remanded back to the first respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioner as well as the respondents 2 and 3, including granting them the right of personal hearing. The first respondent is directed to pass final orders within a period of twelve [12] weeks from the date of receipt of a copy of this order. The petitioner and the respondents 2 and 3 are permitted to file additional documents before the first respondent and the petitioner is also permitted to file a rejoinder to the reply submitted by the second and third respondents earlier before the first respondent. While passing final orders, the first respondent shall consider the materials and evidences produced by the respective parties, on merits and in accordance with law.

12. With the aforesaid direction, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

MR

To

1.The Ombudsman,
Centralised Receipt and Processing Centre (CRPC),
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Banking Office, Fort Glacis,
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2.The Zonal Manager,
Indian Bank, Zonal Office,
345/3, Church 1st Street,
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3.The Branch Manager,
Indian Bank, SME Branch,
Sivakasi Town, P.K.S.A.Arumugam Road,
Sivakasi, Virudhunagar District.

+1 CC to M/s.A.V. ARUN, Advocate (SR-21105[F] dated 26/04/2022)

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