IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-13082-2019
Date of Decision: 13.05.2022

Raman Kumar Aggarwal and others

. . . . Petitioners

Vs.

I.D.B.I Bank Limited and others

. . . . Respondents

CORAM: HON'BLE MR JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE H.S. MADAAN

Present: - Mr.Aalok Jagga, for the petitioners.

Mr.Tejinder K. Joshi, Advocate, for the respondents.

M.S. RAMACHANDRA RAO, J. (ORAL)

Heard both the counsel for the parties.

Counsel for the petitioners contended that respondent No.2 had communicated to the petitioner an order dt.12.12.2018 (P11) declaring the petitioners as willful defaulters allegedly on the basis of an RBI circular dt.01.07.2015 (P16) but, in violation of the said circular, which mandated reasons to be furnished to the persons who are declared as willful defaulters, in the impugned order no reasons are mentioned.

Counsel for the respondents states that reasons exist but, they are not mentioned in the impugned order.

Impugned order passed by respondent No.2 states as under: -

"Please refer to the Master Circular on Willful Defaulters (RBI Circular) issued by RBI and the Show Cause Notice No.IDBI/NMG-CHG/JRA/2018-19 dated June 26th, 2018 issued by the Bank calling for your submissions and the opportunity for personal hearing granted to you on October 15th, 2018. After careful examination of the above, the identification Committee constituted in accordance with RBI circular for examining incidence of willful default issued an

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order recording the fact of your willful default which was reviewed and confirmed by another committee (Review Committee) of the Bank constituted in accordance with RBI circular at its meeting held on November 26th, 2018.

Based on the above, we hereby inform you that the Bank has taken a decision to declare you as a willful defaulter in accordance with RBI Circular and report your name to all Credit Information Companies and/or RBI.

Please note that the above action is without prejudice to the recovery actions and civil/criminal actions, both joint and several, pending or that may be initiated by the Bank against you."

It is the requirement of law that any order which is adverse to a party and visits civil consequences on him must conform to the principle of natural justice, and must contain reasons within the said order, and such reasons cannot be supplied separately.

This view has been taken by the Supreme Court in ***Mohinder Singh Gill and another*** Vs. ***The Chief Election Commissioner, New Delhi and another***[1] and in ***Commissioner of Police, Bombay*** Vs. **Gordhandas Bhanji**[2].

This legal position is not disputed by counsel for the respondents.

Since the decision of respondent No.2 declaring the petitioners as "willful defaulters" is not in accordance with the RBI Circular dt. 01.07.2015 as it does not contain reasons, this Writ Petition is allowed; order dt. 12.12.2018 (P11) as well as the decision taken by respondent No.2 are both set aside. Matter is remitted back to respondent No.2 to consider the submissions of the petitioners to the show cause notice issued to the petitioners, and then pass a reasoned order and communicate the same to the

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[1] AIR 1978 SC 851

[2] AIR 1952 SC 16

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petitioner. This exercise shall be done within eight weeks from the date of receipt of a copy of this order. All other contentions raised by the parties are left open

(M.S. RAMACHANDRA RAO)
JUDGE

(H.S. MADAAN)
JUDGE

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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

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