

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.19146 of 2022

Date of Decision: 05.09.2022

***M/S POLO HOTELS LTD. THROUGH ITS DIRECTOR SH.
AMARDEEP SINGH DAHIYA***

.....Petitioner

V/s.

ALLAHABAD BANK AND OTHERS

.....Respondents

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

Present: Dr. Malkit Singh Jandiala, Advocate,
for the petitioner.

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

Notice of motion.

Mr. Gaurav Goel, Advocate accepts notice on behalf of the
respondent-Bank.

In this Writ Petition, the petitioner has challenged the order
dt.11.05.2022 (Annexure P-15) passed by the Willful Defaulter Review
Committee classifying the petitioner and its Director/Guarantors as willful
defaulters.

It is the contention of the counsel for the petitioner that the
hearing was fixed before the Willful Defaulter Screening Committee of the
Bank through Video Conferencing on 02.03.2022 at 10.30 A.M. vide notice
dt.19.02.2022, and that the Managing Director of the petitioner has sent an
e-mail to respondent No.3 on 02.03.2022 that he is suffering from COVID,
and the hearing be deferred by at least 10 days. But without deferring the
same, the Screening Committee proceeded to make a recommendation to
the Review Committee on the same day, and the Review Committee passed

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the order dt.11.05.2022 (Annexure P-15) classifying the petitioners and its Directors as a willful defaulters.

Counsel for the petitioner contends that the petitioner had a genuine reason for not being able to participate in the hearing held on 02.03.2022 by the Willful Defaulter Screening Committee. It is further contended that the request for adjournment ought to have been accepted by the respondents, and they could not have proceeded to take a decision on the matter without hearing the petitioner and there is, thus, a grave violation of principles of natural justice.

Mr. Gaurav Goel, Advocate appearing on behalf of the respondents states that the respondents have sent an e-mail on 02.03.2022 itself asking the petitioner to provide proof to the fact that the Managing Director of the petitioner was suffering from COVID and the petitioner has not submitted the same. However, the petitioner had admittedly submitted along with an e-mail on 02.03.2022 a medical certificate dt.25.02.2022 showing that the petitioner was suffering from fever and pain in the lower abdomen and he was advised medication.

Having regard to the fact that the Managing Director of the petitioner was unwell and was unable to appear before the Willful Defaulter Screening Committee in the hearing held on 02.03.2022, the said Committee ought to have granted adjournment sought by the petitioner. So, the impugned order dt. 11.05.2022 (Annexure P-15) passed by the Willful Defaulter Review Committee based on the recommendation of Willful Defaulter Screening Committee is vitiated on the ground of violation of the principles of natural justice.

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Accordingly, the Writ Petition is allowed; impugned order dt. 11.05.2022 (Annexure P-15) passed by the Willful Defaulter Review Committee Classifying the petitioner as well as its Director and Guarantor as 'Willful Defaulter' is set aside; the matter is remitted back to the Willful Defaulter Screening Committee which shall give a personal hearing to the petitioner and then proceed in accordance with law.

(M.S. RAMACHANDRA RAO)
JUDGE

(HARMINDER SINGH MADAN)
JUDGE

September 5, 2022

Ess Kay

<i>Whether speaking / reasoned</i>	:	<i>Yes /No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>