119 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-25312-2022
Date of decision: 07.12.2022

SANJAY GUPTA ... **Petitioner**

Versus

RESERVE BANK OF INDIA AND ANR. ... **Respondents**

CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO,
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Ms. Kriti S. Avasthi, Advocate and
Mr. Puneet Gupta, Advocate for the petitioner.

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

Notice of motion.

Mr. Gaurav Goel, Advocate accepts notice on behalf of respondent No.2.

The petitioner is a former Director and Guarantor of Company M/s Supreme Tex Mart Private Limited. As per Annexure P-2 he has resigned from his Directorship on 19.04.2013.

A show cause notice dated 06.10.2021was issued to the petitioner and six other Directors of M/s Supreme Tex Mart Private Limited wherein it was intimated to them that a proposal was made to include the petitioner and other Directors in the list of “wilful defaulters”. It was mentioned in the said show cause notice that KPMG had submitted as report in February, 2018 for the period 01.01.2013 to 31.03.2016 pointing out several irregularities and on the basis of the said report action is proposed to be initiated against the petitioner.

However, along with the show cause notice copy of the said report was not furnished to the petitioner.

On 07.01.2022 the petitioner received a further intimation regarding the decision of declaration of “wilful default” in the account of

M/s Supreme Tex Mart Private Limited and inclusion of the names of petitioner and directors in the list of "wilful defaulters". In the said letter it is mentioned that Executive Directors Committee had taken a decision to declare M/s Supreme Tex Mart Private Limited and petitioner as "wilful defaulter" and that the petitioner could make a representation against the said decision to a Review Committee comprising of Managing, Director and CEO and two independent Directors within 15 days from the date of the letter.

On 06.04.2022 petitioner represented to the respondent-Bank mentioning that the petitioner had resigned in 2013 itself and was not responsible for the acts of the company after his resignation and such acts cannot be fastened on to him.

The same was considered by the respondent and by the impugned letter dated 22.06.2022 which was rejected.

It is the contention of the counsel for the petitioner that the basis of issuance of the show cause notice against the petitioner being the KPMG report, without supplying the copy of the report to the petitioner, no decision could have been taken by the Executive Director Committee of the Bank to treat the petitioner as a "wilful defaulter".

It is the further contention of the counsel for the petitioner that no reasons are found in the order dated 07.01.2022 communicated to the petitioner declaring the petitioner as "wilful defaulter" and only a conclusion is referred to therein that such declaration is being made viz-a-viz the petitioner as per a Forensic Audit Report.

Counsel for the petitioner contends that without supplying the reasons for decision of the Executive Director Committee to the petitioner, the respondent-Bank could not have made a final conclusion in the letter dated 22.06.2022 against the petitioner.

No material is placed before this Court by the respondents to show that the KPMG report on the basis of which show cause notice dated 06.10.2021 was issued to the petitioner was ever supplied to the petitioner, or that the reasons for the decision of the Executive Director Committee communicated to the petitioner on 07.01.2022 classifying the petitioner as a "wilful defaulter" were furnished to the petitioner.

The petitioner was thus disabled from making any effective representation to the Review Committee of the respondent-Bank.

In view of the non-supply of the material adverted to in the show cause notice as well as the reasons for the Executive Director Committee to declare the petitioner as "wilful defaulter", we are of the opinion that there is a grave violation of principles of natural justice which has caused serious prejudice to the petitioner.

Therefore, we set aside the decision of the Executive Director Committee declaring the petitioner as "wilful defaulter"; direct the respondent to supply to the petitioner copy of the report of KPMG which is mentioned in the show cause notice dated 06.10.2021 within three weeks from the date of receipt of a copy of this order; the petitioner is permitted to give a representation/reply to the said show cause notice after perusing the contents of the report within 4 weeks of supply of such report to the petitioner; and then the Executive Director Committee of the respondent-Bank shall take a decision afresh without reference to its previous decision and then communicate its decision to the petitioner.

In view of this, the reply dated 22.06.2022 issued by the respondent-Bank is also set aside.

Writ petition is allowed as above.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

07.12.2022
Sonia

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