

7th December,
2023
(AK)
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W.P.A. 26963 of 2023

Ramesh Kumar Dinodiya @ Ramesh Kumar Agarwal
Vs.
The Union of India and others

Mr. Debasish Roy
Mr. Phiroze Edulji
Mr. Koushik Kundu
Ms. Mrinalini Mazumdar
...for the petitioner.

Mr. Dipanjan Datta
...for the Bank.

Mr. Dhiraj Trivedi
Ms. Rini Bharttacharjee
...for the Union of India.

1. Learned senior counsel appearing for the petitioner contends that the petitioner stands on an equal footing with several others who have been granted the relief of cancellation of LOCs (Lookout Circulars) issued against them.

2. Learned senior counsel places reliance on the order in that regard passed in favour of the son of the petitioner which is annexed at page-32. The said order was affirmed in appeal, which is also annexed at page-38 of the writ petition. Two daughters-in-law of the petitioner were also granted similar relief, which orders are also annexed, as was the wife of the petitioner.

4. The grounds disclosed in the reasons for issuance of LOC by the Bank, it is contended, are insufficient and

do not fall within the relevant Circulars issued by the Government of India.

5. Learned counsel for the Bank opposes the prayer and submits that, as evident from the previous orders, one by one the entire family of the petitioner is attempting to settle outside India in order to defraud the Bank and to avoid making payments.

6. It is also submitted that huge dues are pending against the petitioner and the petitioner ought not to be permitted to leave the country.

7. A perusal of the materials-on-record shows that the grounds shown by the Bank in its request are insufficient for issuance of an LOC even as per the Government guidelines, since there is nothing on record in the reasons for issuance of LOC to indicate that the economic interest of the country or public interest would suffer as a whole in the event the petitioner is permitted to leave India.

8. That apart, since the petitioner stands on an equal footing as the other family members of the petitioner whose LOCs, issued on the basis of the same request, have also been cancelled, the petitioner is also entitled to similar relief on the ground of parity within the purview of Article 14 of the Constitution of India.

9. Insofar as the Bank's anxiety regarding recovery is concerned, the remedy before the respondent-Bank lies in appropriate recovery proceedings.

10. The law contemplates sufficient measures for the Bank or other creditors to recover dues in due process of law.

11. However, the personal liberty of a person cannot be interdicted at the drop of a hat by adopting the extreme mode of issuance of a request for LOC.

12. In such view of the matter, WPA 26963 of 2023 is allowed on contest, thereby setting aside and quashing the LOC (Lookout Circular) issued against the petitioner.

13. The respondent authorities shall ensure that whichever authority had been intimated about the issuance of LOC in the first place shall be further intimated as regards the gist of this order.

14. The respondents shall remain restrained from preventing the petitioner from leaving the country on the basis of the quashed LOC any further.

15. Nothing in this order shall prevent the Bank from proceeding duly with recovery proceedings as provided in law against the petitioner.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)