

OD - 7

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

APO/48/2023
IA NO.GA/1/2023

NILLESH PARREKH @ NILESH PAREKH
-Versus-
RESERVE BANK OF INDIA & ORS.

BEFORE:

The Hon'ble T.S. SIVAGNANAM, ACTING CHIEF JUSTICE

-And-

The Hon'ble JUSTICE HIRANMAY BHATTACHARYYA

Date : 10th May, 2023.

Appearance :

Mr.Jishnu Choudhury, Adv.
Mr.Souradeep Banerjee, Adv.
Mr.A. Agarwalla, Adv.
Ms. D. Mukherji, Adv.
Ms.P. Garain, Adv.
..for the appellant.

Mr. Ronojit Chowdhury, Adv.
...for the respondent no.4.

The Court : This intra-Court appeal filed by the writ petitioner is directed against the order dated 13th April, 2023 in WPO No.2768 of 2022 and WPO No.772 of 2023. The first writ petition was filed challenging the order passed by the Identification Committee including the appellant in the CIC list

of wilful defaulters and the second writ petition was filed challenging the order of the Review Committee. The learned Single Bench had dismissed the writ petition stating that no grounds have been made out to interfere with the said orders.

Aggrieved by the same, the appellant has preferred the present appeal.

We have elaborately heard Mr. Jishnu Choudhury, learned counsel assisted by Mr. Souradeep Banerjee, learned advocate appearing for the appellant and Mr. Ronojit Chowdhury, learned advocate appearing for the respondent no.4.

On perusal of the material papers placed before this Court, we find that the show cause notice was issued to the appellant on 27th June, 2022 calling upon the appellant to respond as to why he should not be classified as a wilful defaulter. By notice dated 21st July, 2022 an opportunity of personal hearing was fixed on 5th August, 2022 through video conferencing with the help of the device installed at the Regional Office of the respondent-bank at Kolkata. The appellant through his advocate sent a communication to the Central Office at Mumbai of the respondent-bank on 3rd August, 2022 which was sent by speed post. Admittedly, the said letter was received by the Central Office at Mumbai on 10th August, 2022. However, the personal hearing was fixed on 5th August, 2022. The appellant submitted a representation on 4th August, 2022 which

was received by the respondent-bank on the same date wherein he requested to defer the personal hearing by 15 days as his lawyer has sent a detailed reply to the show cause notice only on 4th August, 2022 and that he is unwell and not in a position to give instructions. The said request for postponing the personal hearing was neither accepted nor rejected but on 8th September, 2022 the order declaring the appellant as wilful defaulter by the Wilful Defaulter Identification Committee (WDIC). On perusal of the order, we find that the order merely extracts the allegations in the show cause notice and the Committee has not assigned any reasons as to why the allegations in the show cause notice need to be confirmed. Even assuming that no effective reply was sent by the appellant, it is not in dispute that the interim reply given by the appellant dated 3rd August, 2022 sent to the Mumbai office was received on 10th August, 2022 and the order of the Committee was passed only on 8th September, 2022. Therefore, the Committee was bound to deal with the objections raised by the appellant in their interim reply though in the said reply they sought for certain documents. Thereafter, the writ petition was filed challenging the said order. During the pendency of the said writ petition, the Review Committee passed an order which was challenged by filing the second writ petition. On perusal of the order passed by the Review Committee, we find that it is verbatim

reproduction of the order passed by the WDIC and the Review Committee has not recorded its satisfaction as to why the order passed by the WDIC has to be affirmed. In this regard, it will be beneficial to refer to the decision of the Hon'ble Supreme Court in the case of **Oryx Fisheries Private Limited Vs. Union of India & Ors.,** reported in **(2010)13 SCC 427** wherein the Hon'ble Court pointed out that when show cause notice became patent in the order of cancellation of registration certificate and it quotes the show cause notice, the order is to be branded as a non-speaking order and virtually no order in the eye of law.

As already noticed that both in the orders passed by the WDIC as well as the Review Committee, no reasons have been set out and it is a mere verbatim reproduction of the show cause notice. Thus, the entire proceedings initiated by the respondent-bank culminating in the order of the Review Committee are thoroughly flawed.

For the above reasons, the appeal is allowed. The orders passed in the writ petition are set aside and the writ petitions are allowed and the matters stand remanded to the WDIC. The appellant is directed to submit his reply to the allegations made in the show cause notice within fifteen days from date of receipt of the server copy of this order. Thereafter, the respondent-bank shall fix a date for personal hearing and the appellant and/or his

authorised representative shall be heard by the Committee and a fresh and reasoned decision be taken on merits and in accordance with law.

In view of the above, the appeal [APO/48/2023] stands disposed of. Consequently, the connected application [GA/1/2023] stands closed.

(T.S. SIVAGNANAM)
ACTING CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)