IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2023

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.8077 of 2023

Abdul Kareem ... Petitioner

vs.

1.M/s.Reserve Bank of India,
No.16, Fort Glacis,
Rajaji Road,
Fort St.George,
Chennai-600 001.

2.M/s.Paytm Customer Office,
No.33, 2nd Floor,
Bukrit Road,
T.Nagar,
Chennai-600 017. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to release the amount which was freezed by the second respondent by considering the petitioner's representation dated 09.02.2023.

For Petitioner : Mr.V.Arul

For R1 : Mr.C.Mohan
for M/s.King and Patridge
for RBI

ORDER

This Writ Petition has been filed seeking Writ of Mandamus, to direct the first respondent to release the amount which was freezed by the second respondent by considering the petitioner's representation dated 09.02.2023.

2.The case of the petitioner is that he is running a business in the name and style of "Jass Fashions". He being a sole proprietor managed the entire business transactions. In order to ease the process of transferring money, he opened a business Paytm Account by signing up into Paytm Application and he started making transactions relating to his business. While so, the petitioner's Paytm account was freezed by the second respondent, without any intimation or notification, by which the petitioner was unable to access his Paytm business account. Regarding the said issue, the petitioner sent multiple e-mails, final e-mail on 29.11.2022, which got reply from the second respondent, wherein it was stated that the petitioner's account was blocked for suspicious activities. Since it was not a valid reason as the second respondent did not even made any prior intimation or notification before freezing the account, the petitioner made a representation dated 09.02.2023 before the first respondent, seeking to take action against the second respondent. However, till date, no action has been taken. Hence the present writ petition.

3. Learned counsel for the petitioner submitted that as per Payment and Settlement Systems Act, 2007, the first respondent is the superior body of all banking institutions and it is empowered to take legal action against the fraudulent act of the second respondent. Hence, this court may issue a direction to the first respondent to take action against the second respondent as per the Payment and Settlement Systems Act, 2007.

4.Learned standing counsel appearing for the Reserve Bank of India submitted that an individual contract has been entered between the petitioner and the second respondent, where the first respondent /Reserve

Bank of India have no power to interfere with the same. The learned counsel relied upon the decision of the Apex Court in ***Federal Bank Ltd., vs. Sagar Thomas and others, reported in (2002) 10 SCC 733.*** The relevant portion of the Judgment is extracted hereunder:

> *"32.Merely because Reserve Bank of India lays the banking policy in the interest of the banking system or in the interest of monetary stability or sound economic growth having due regard to the interests of the depositors etc. as provided under Section 5(c)(a) of the Banking Regulation Act does not mean that the private companies carrying on the business or commercial activity of banking, discharge any public function or public duty. These are all regulatory measures applicable to those carrying on commercial activity in banking and these companies are to act according to these provisions failing which certain consequences follow as indicated in the Act itself. As to the provision regarding acquisition of a banking company by the Government, it may be pointed out that any private property can be acquired by the Government in public interest. It is now a judicially accepted norm that private interest has to give way to the public interest. If a private property is acquired in public interest, it does not mean that the party whose property is*

acquired is performing or discharging any function or duty of pubic character though it would be so for the acquiring authority."

5. In the present case, the petitioner, being a proprietor of a private company downloaded the second respondent's Paytm application on his own volition as such, approaching the first respondent / Reserve Bank of India to take action against the second respondent is not maintainable. If at all the petitioner is aggrieved by the service provided by the second respondent, he has to workout the remedy before the banking ombudsman or competent civil court. Without doing so, filing the writ petition as against the first respondent is not sustainable. Accordingly he prays for dismissal of the petition.

6. As has been pointed out by the learned Standing Counsel for the first respondent, the petitioner, being a proprietor of a private company has downloaded the second respondent’s Paytm Application on his own volition for making business transactions, as such approaching the first respondent, merely because it lays the banking policy in the interest of the banking

system or in the interest of monetary stability, is not maintainable. Further, it seems that there is some dispute between the petitioner and the second respondent, thereby the second respondent has blocked the petitioner's Paytm account.

7. In view of the aforesaid fact, it is evident that the first respondent / Reserve Bank of India have no role to play in the dispute with regard to the contract entered between the petitioner and the second respondent. Hence, this writ petition is liable to be dismissed.

8. This writ petition is dismissed accordingly. However, the petitioner is at liberty to workout the remedy in the manner known to law. No Costs.

16.03.2023

Index : Yes/No
Speaking order : Yes/No
anu

To:

M/s.Reserve Bank of India,

No.16, Fort Glacis,
Rajaji Road,
Fort St.George,
Chennai-600 001.

M.DHANDAPANI,J.

anu

W.P.No.8077 of 2023

16.03.2023