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W.P.No.14801 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2023

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THE HON'BLE MR. JUSTICE C. V. KARTHIKEYAN

Writ Petition No.14801 of 2022

and

W.M.P.No.14003 of 2022

M/s. Vitec Consultancy,
Represented by its Proprietor Ms.B.S.Usha Dhevi,
Flat GB, Block 1,
Shyam's Thirth Apartments,
North Jaganatha Nagar,
Villivakkam, Chennai – 600 049.

... Petitioner

Versus

1. Indian Banks' Association,
Represented by its Chief Executive Officer,
World Trade Centre,
6th Floor, Central Building,
World Trade Centre Complex,
Cuff Parade,
Mumbai – 400 005.

2. The Punjab National Bank,
Circle Office, PNB Towers (II Floor)
46-49, Royapettah High Road,
Chennai – 600 014.

3. The Tamil Nadu Mercantile Bank,
Represented by its Branch Head,
No.43/45, Rajiv Gandhi Salai,
Old Mahabalipuram Road,
Kelambakkam,
Chennai – 603 103.

... Respondents



W.P.No.14801 of 2022

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to remove the name of the petitioner from the Caution List of Third Party Entities from their website.

For Petitioner : Mr.A.E.Ravichandran

For R2 : Mr.R.Jaya Prakash

ORDER

The Writ Petition has been filed in the nature of Writ of Mandamus seeking a direction against the 1st respondent/Indian Banks' Association represented by its Chief Executive Officer, World Trade Centre, Mumbai to remove the name of the petitioner from the Caution List of third-party entities from their website.

2. The 2nd respondent is the Punjab National Bank, Royapettah at Chennai. The 3rd respondent is the Tamil Nadu Mercantile Bank, Kelambakkam at Chennai.

3. The 3rd respondent is not a necessary party to the present Writ Petition. There is no relief sought as against the 2nd respondent.



However, the Court had the benefit of the assistance rendered by Mr.R.Jaya Prakash, learned counsel on behalf of the 2nd respondent.

4. Mr.A.E.Ravichandran, learned counsel for the petitioner stated that the petitioner herein, M/s.Vitec Consultancy, represented by its proprietrix, B.S.Usha Dhevi, a qualified Civil Engineer having degree in B.E.(Civil) and M.Sc., in Real Estate and Valuation and also a Fellow in the Institution of Valuers is a registered valuer for the Insolvency and Bankruptcy Board of India and also an approved valuer for Banks.

5. The petitioner was also in the Panel of Valuers for the 2nd respondent/the Punjab National Bank. They had given a Valuation Report in the year 2014 with respect to a particular vacant site on the basis of which, loan was sanctioned. In the year 2019, that loan was declared as a Non Performing Asset. Thereafter, the 2nd respondent had independently valued the property and had come to a conclusion that the valuation of the petitioner was on the higher side and therefore, had engaged the petitioner in a discussion but later, based on a communication of the 1st respondent namely the Indian Banks'



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Association, had uploaded the name of the petitioner in what may be termed as blacklisting the petitioner from functioning further as Valuer.

6. The grievance of Mr.A.E.Ravichandran, the learned counsel for the petitioner is that this particular act of uploading the name of the petitioner has rendered the petitioner from being entitled from providing valuation to any other Bank, quite apart from the 2nd respondent/the Punjab National Bank. As a matter of fact, in effect the petitioner has been excommunicated from the group of Valuers.

7. It is under those circumstances, the Writ Petition has been filed seeking interference with such uploading of the name of the petitioner herein.

8. Notices had been directed to the respondents. The name of the 1st respondent and the address has been printed in the cause list. It has been continuously printed in the cause list for at least three hearing dates, but there has been no appearance on behalf of the said 1st respondent by any learned counsel.



9. It can be presumed that the 1st respondent is not interested in contesting the present Writ Petition, or that they have no regard for this judicial process.

10. As stated, the Court had the benefit of the assistance presented by the learned counsel for the 2nd respondent.

11. It had been stated that the 2nd respondent had taken action only after issuing notice to the petitioner and after hearing the petitioner. But the actual uploading of the name of the petitioner on instructions by the 1st respondent was done without any further formal communication.

12. In this connection, there is a Hand Book on Policy Standards and Procedures for Real Estate Valuation by Bank and Housing Finance Institutions in India.

13. I had a benefit of an order passed by a learned Single Judge of this Court in ***W.P.No.17780/2017 [N.R.Raghuram and Company vs. Indian Bank's Association and Others.]***



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14. In that particular order which Writ Petition was also filed, seeking the same relief, namely to remove the name of the petitioner therein from the Caution List, the learned Single Judge had extracted the following from the Hand Book:

“14. Clause 1.4 and 1.5 of the handbook on policy standards and procedures for real estate valuation by banks and housing finance institutions in India reads as follows:

“1.4 Removal

In extreme cases where the valuer has been found to be indulging in unfair practices, guilty of professional misconduct, violating the code of ethics and professional practice, he shall be removed from the panel. The procedure to be followed by the banks/housing finance institutions shall comprise of the following steps:

- issue of show cause notice*
- hearing*
- appropriate action, including removal from the panel for a period of five years, if charges are found serious.*

1.5 Re-Empanelment

Valuers once removed from the panel of any bank or housing finance institution could be re-



empanelled again after a specified period, based on the recommendations of the bank Conflict Resolution Committee. Names of valuers removed shall be reported to the Indian Banks' Association which in turn shall place the names on its Caution List.”

15. A careful reading of the above shows that a Show Cause Notice has to be issued and a hearing has to be conducted and thereafter, appropriate action has to be done including removal from the panel for a period of five years if the charges are serious.

16. In the instant case, there was only one stray occasion, where the petitioner had unfortunately come to the adverse notice of the 2nd respondent on the charge of over-valuing a particular site in the year 2014.

17. A further perusal of the Clauses extracted above also shows that those who are removed from the panel can again be re-empanelled.



18. Taking into consideration the fact that the name of the petitioner had been uploaded without any opportunity being given by the 1st respondent directly, I would, also taking into consideration the fact that the 1st respondent had taken a conscious decision not to appear before this Court or be represented before this Court, and balancing that factor with the fact that by uploading the name of the petitioner, the petitioner has come to the adverse knowledge of all the banks which is an extreme step taken, interfere with the uploading of the name of the petitioner by the 1st respondent in their website, and issue a direction that this should be removed immediately.

19. All individual Banks are given freedom to independently engage the petitioner as a valuer on the basis of the confidence they have on the capabilities of the petitioner herein. But there cannot be a restraint of trade absolutely.

20. I am therefore compelled to pass an order, allowing the Writ Petition and directing that the name of the petitioner must be removed from the website of the 1st respondent. Any Bank and every Bank is



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given the freedom to engage the petitioner as a professional valuer
subject.

21. Recording as above, the Writ Petition stands allowed. The 1st respondent is directed to remove the name of the petitioner within a period of three weeks from the date, when a copy of this order is made ready by the registry. No order as to costs. Consequently, the connected miscellaneous petition stands closed.

10.01.2023

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Index : Yes/No

Internet : Yes/No

Neutral Citation Case: Yes/No

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C. V. KARTHIKEYAN, J.

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