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W.P.Nos.6802 & 6803 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 09.03.2023**

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**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**W.P.Nos.6802 & 6803 of 2014**

**W.P.No.6802 of 2014:**

R.Subramanian

...Petitioner

Vs.

1.Reserve Bank of India,  
Rep.by its Regional Director,  
Fort Glacis, Rajaji Salai,  
Chennai – 600 001.

2.The Hongkong and Shanghai Banking  
Corporation (HSBC)  
No.52/60, MG Road,  
Fort Mumbai – 400 001.

3.Stuart Milne,  
Chief Executive Engineer,  
The Hongkong and Shanghai Banking  
Corporation (HSBC)  
No.52/60, MG Road,  
Fort Mumbai – 400 0013

..Respondents

**Prayer** : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1<sup>st</sup> respondent to take necessary action against the respondents 2 to 3 herein, under the powers vested with it under Section 36AA of the Banking Regulation Act for breaching the



W.P.Nos.6802 & 6803 of 2014

confidentiality of banking transactions and the observance of the banking code and the generally accepted practices of Banking secrecy inherent in the relationship of banker and customer and further direct the 3<sup>rd</sup> respondent to furnish the copies of all records relating to the petitioner handed over to the Inspector together with all correspondence received from or written to the Inspector appointed in connection with an Investigation of M/s. Subhiksha Trading Services Ltd and sought under Section 240 of the Companies Act.

**W.P.No.6803 of 2014:**

R.Subramanian

...Petitioner

Vs.

1. Reserve Bank of India,  
Rep.by its Regional Director,  
Fort Glacis, Rajaji Salai,  
Chennai – 600 001.
2. The Hongkong and Shanghai Banking  
Corporation (HSBC)  
No.52/60, MG Road,  
Fort Mumbai – 400 001.
3. Stuart Milne,  
Chief Executive Engineer,  
The Hongkong and Shanghai Banking  
Corporation (HSBC)  
No.52/60, MG Road,  
Fort Mumbai – 400 0013

..Respondents

**Prayer :** Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1<sup>st</sup> respondent to take necessary



W.P.Nos.6802 & 6803 of 2014

action against the respondents 2 to 3 herein, under the powers vested with it under Section 36AA of the Banking Regulation Act for breaching the confidentiality of banking transactions and the observance of the banking code and the generally accepted practices of Banking secrecy, and further direct that necessary action be initiated by the 3<sup>rd</sup> respondent through the Board of Directors against the officers of the 2<sup>nd</sup> respondent herein for the commission of the offence of breach of confidentiality inherent in the relationship of Banker and customer and further direct the 2<sup>nd</sup> respondent to furnish the copies of all records relating to the petitioner handed over to the Inspector together with all correspondence received from or written to the Inspector appointed in connection with an Investigation of M/s. Subhiksha Trading Services Ltd and sought under Section 240 of the Companies Act.

|                |                                                                     |
|----------------|---------------------------------------------------------------------|
| For Petitioner | : Mr.R.Subramanian<br>Party-in-Person<br>(in both W.Ps)             |
| For R1         | : Mr.T.Poornam<br>For Reserve Bank of India (RBI)<br>(in both W.Ps) |
| For R2 & R3    | : No appearance<br>(in both W.Ps)                                   |

### **COMMON ORDER**

The issues involved in both the writ petitions are one and the same. Hence both the writ petitions were heard together and disposed of by this common order.



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2. The petitioner in person mainly contended that the respondents 2 and 3 in these writ petitions have committed several irregularities in its Banking transactions with them and in this regard, the writ petitioner raised several allegations and submitted a complaint for initiation of action under the Banking Regulation Act. The Reserve Bank of India (RBI) being the competent authority has not initiated any action and thus, the petitioner is constrained to move the present writ petitions.

3. The writ petitioner has further stated that the company was liquidated and the violations in transactions are not even looked into.

4. The learned counsel for the 1<sup>st</sup> respondent/Reserve Bank of India (RBI) objected the said contentions by stating that the Reserve Bank of India (RBI) has to act in accordance with the provisions of the Act, in the event of receiving any proper complaint from the persons concerned. An enquiry is to be conducted, if warranted and thereafter a decision is to be taken regarding violations or otherwise as alleged by the petitioner herein.

5. Thus, this Court cannot adjudicate the disputed facts in a writ proceedings and such an adjudication must be done with reference to the



W.P.Nos.6802 & 6803 of 2014

original documents and evidences and also the technical aspects involved in the Banking transactions. Under these circumstances, the first respondent / Reserve Bank of India (RBI) has to look into the allegations in the complaint submitted by the writ petitioner and take a decision on merits and in accordance with law without causing any undue delay, since the complaint was lodged 10 years back.

6. The petitioner is at liberty to furnish the copy of the complaint given to the Reserve Bank of India (RBI) and all the required documents along with the orders passed in the present writ petitions.

7. With this liberty, both the writ petitions stand disposed of. No costs.

**09.03.2023**

Index : Yes/No  
Speaking order/Non-Speaking order  
Neutral Citation: Yes/No  
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To

1. The Regional Director,  
Reserve Bank of India,  
Fort Glacis, Rajaji Salai,  
Chennai – 600 001.



WEB COPY



W.P.Nos.6802 & 6803 of 2014

**S.M.SUBRAMANIAM, J.**

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**W.P.Nos.6802 & 6803 of 2014**

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