



WEB COPY



WP No.17669 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA , CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.17669 of 2020
and WMP Nos.21911, 21912 and 22063 of 2020

1. N.Ramkhumar Narasimhan

2. Poorani Nagarajan

(Former directors of M/s.Infinitas Energy
Solutions Pvt. Ltd., Erstwhile Known
as Trishe Developers Pvt. Ltd.)

.. Petitioners

-VS-

1. Ministry of Finance,
Rep. by its Secretary,
Department of Financial Services,
Jeevan Deep Building,
Parliament Street, New Delhi 110001.

2. Reserve Bank of India,
Rep. by its Chief General Manager,
Department of Banking Operations &
Development, Central Office,
13th Floor, Central Office Building,
Shahid Bhagat Singh Road,
Mumbai 400 001.



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3. Punjab National Bank,
Rep. by its Branch Manager,
Large Corporate Branch, Rayala Towers,
Anna Salai, Chennai 600 002.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned Circular No.DBS.CO.CFMC.BC.No.1/23.04.001/2016-17 dated 01.07.2016 passed by the 2nd respondent, quash the same as illegal, incompetent and unconstitutional, and consequently forbear the 3rd respondent from initiating any consequential action categorizing the petitioners as 'fraud' as per the Circular No.DBS.CO.CFMC.BC.No.1/23.04.001/2016-17 dated 01.07.2016.

For the Petitioners : Mr.P.H.Arvinth Pandian
Senior Counsel
for Mr.R.Mansoor Ilahi

For the Respondents : Dr.G.Babu for R-1
: Mr.C.Mohan
for M/s.King & Partridge for R-2
: Mr.F.B.Benjamin George for R-3

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ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.P.H.Arvinth Pandian, learned senior counsel for the petitioners, Dr.G.Babu, learned counsel for respondent No.1, Mr.C.Mohan, learned counsel for respondent No.2 and Mr.F.B.Benjamin George, learned counsel for respondent No.3.

2. The petitioners' account is declared as a fraud account under the impugned communication.

3. The learned senior counsel for the petitioners submits that no notice was issued to the petitioners nor any reply was solicited from the petitioners before declaring their account as fraud. The same is illegal. Reliance is placed on the judgment of the Apex Court in a case of ***State of Bank of India vs. Rajesh Agarwal*** reported in **(2023) 6 SCC 1**.



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4. The learned counsel for the third respondent bank, on instructions, accepts that no show cause notice was issued to the petitioners. He submits that the bank would now issue a show cause notice to the petitioners.

5. The Apex Court in the case of **State Bank of India** (supra), has observed that the application of *audi alteram partem* cannot be impliedly excluded under the Master Directions on Frauds. The principles of natural justice demand that the borrowers must be served a notice, given an opportunity to explain the conclusions of the forensic audit report and be allowed to represent by the bank before their account is classified as fraud under the Master Directions on Frauds. The judgment further requires that the decision classifying the borrower's account as fraudulent must be made by a reasoned order.

6. In light of the above, the impugned order classifying the account of the petitioners as fraud is set aside.



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7. It is open for the respondent bank to issue notice to the petitioners, call for an explanation from the petitioners and then pass fresh orders.

8. The writ petition is, accordingly, disposed of. There will be no order as to costs. Consequently, W.M.P.Nos.21912 and 22063 of 2020 are closed.

W.M.P.No.21911 of 2020 filed by the petitioners seeking to permit them to file a single writ petition is allowed and disposed of.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

(sra)

To

1. The Secretary,
Ministry of Finance,
Department of Financial Services,
Jeevan Deep Building,
Parliament Street, New Delhi 110001.
2. The Chief General Manager,
Reserve Bank of India, Department of Banking
Operations & Development, Central Office, 13th Floor,
Central Office Building, Shahid Bhagat Singh Road,
Mumbai 400 001.
3. The Branch Manager,
Punjab National Bank, Large Corporate Branch,
Rayala Towers, Anna Salai, Chennai 600 002.

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