9th August, 2024
(AK)
01-03

W.P.A 892 of 2024

Hemant Kanoria and another
Vs.
Central Bank of India

With

W.P.A 1215 of 2024

Hemant Kanoria and another
Vs.
Punjab and Sind Bank

With

W.P.A 1223 of 2024

Hemant Kanoria
Vs.
South Indian Bank Limited

Mr. Deepan Kumar Sarkar
Mr. Samriddha Sen
Mr. Shubhrojyoti Mukherjee
Mr. Naman Chowdhury
Mr. Soumalya Ganguli
...for the petitioners.

Mr. Dhruv Dewan
Mr. Anoop Rawat
Mr. Saurav Panda
Mr. Deepanjan Dutta Roy
Ms. Arushi Chandra
Ms. Sanjana Jha
Ms. Rashi Sharma
...for the respondents.

1. When the matter is called on for hearing, learned counsel for the petitioners hand over a copy of a proposed agreed order authored on behalf of the respondents.

2. Learned counsel for the petitioners submits that the petitioners are fully agreed to the said order being passed.

3. In view of such submission of learned counsel and upon going through the materials on record, WPA 892 of 2024, WPA 1215 of 2024 and WPA 1223 of 2024 are disposed of as follows:

1. "By these three writ petitions, the petitioner have *inter alia* sought a declaration that the steps adopted by the respondent banks in each of the said writ petitions under the Reserve Bank of India (Frauds Classification and Reporting by Commercial Banks and Select FIs) Directions, 2016 (hereinafter referred to as, "the RBI Master Directions") including the consideration of the forensic audit report issued by KPMG as also the issuance of the show cause notices by the respondent banks be declared as illegal and unconstitutional.

2. In WPA No.892 of 2024, the show-cause notice dated December 26, 2023 issued by CBI has been challenged. The subject-matter of challenge in WPA No. 1215 of2024 is the show-cause notice dated December 27, 2023 issued by PSB and in WPA No. 1223 of 2024, the show-cause notice dated January 4, 2024 issued by SIB has been assailed.

3. The prayers sought in the present three writ petitions are identical to the prayers sought in W.P.A No. 28329 of 2023 (*Hemant Kanoria vs. Bank of India*)which was disposed of *vide* Judgement and Order dated February 02, 2024of this Court in the following terms:

"74. ***WPA No. 28329 of 2023, WPA No. 28980 of 2023 and WPA No. 236 of 2024****are disposed of by directing the petitioner in each of those writ petitions to furnish his reply to the show-cause notices within a fortnight from date, indicating the documents which are required to be inspected by / furnished to the petitioner to effectively rebut the allegations made therein.*

75. Upon such reply being given, the respondent-Bank in each of the writ petitions shall fix a date for giving inspection of the documents, if extremely voluminous; alternatively, the Banks shall furnish copies of the relevant documents to the petitioner within a further fortnight thereafter.

76. Upon being so served/given inspection, the petitioner shall, if necessary, give an additional reply in the light of such documents. Such additional reply shall be given within an outer limit of a fortnight from such inspection/furnishing of copies of documents.

77. The respondent-Bank in each of the cases shall thereafter fix an early date for hearing the petitioner. Upon such hearing being concluded, the respondent-Bank in each of the cases shall take a reasoned decision as to whether or not to declare the petitioner as "fraud" or "perpetrator of fraud". In the event the petitioner is declared to be fraud/perpetrator of fraud, the same shall be intimated in due course of law to the RBI and appropriate consequential steps under the Master Directions of the RBI shall be taken by the respondent-Bank in each of the cases."

4. On July 12, 2024, the Ld. counsel for the Petitioner and the Ld. counsel for the sole Respondent in each of the writ petitions had submitted that the present writ petitions shall be governed by the order passed by this court on February 02, 2024 in connection with WPA No. 28329 of 2023 *(Hemant Kanoria vs. Bank of India)* and sought time to come back with an agreed order. The matters were thereafter taken up on July 19,2024 when the counsel were directed to resolve the limited disagreement on the order to be passed in these matters.

5. The Ld. counsel for the Petitioner submitted that Vol.4 of the KPMG forensic audit report containing the annexures and exhibits to the KPMG forensic audit report have not been supplied to the Petitioner. The Ld. counsel for the Respondent banks does not agree with this, however, with a view to give quietus to this issue, has agreed that the counsel for the Respondents would again provide a full copy of the FAR along with all volumes of the KPMG report to the counsels for the Petitioner, by tomorrow i.e. August 10, 2024.

6. Accordingly, **WPA No. 892 of 2024, WPA No. 1215 of 2024 and WPA No. 1223 of 2024** are disposed of by directing the following –

7. Although the Respondent Banks have served a copy of the KPMG forensic audit report to the Petitioner, the Respondent Banks through counsel will serve a copy of the full KPMG forensic audit report along with all volumes of annexures and enclosures to counsel for the Petitioner by August 10, 2024 in good faith.

8. The Petitioner in each of these writ petitions would furnish his reply to the show-cause notices within 21 days from today, indicating the documents which are required to be inspected by / furnished to the petitioner to effectively rebut the allegations made therein.

9. Upon such reply being given, the respondent-Bank in each of the writ petitions shall fix a date for giving inspection of the documents, if extremely voluminous; alternatively, the Banks shall furnish copies of the relevant documents to the petitioner within a further fortnight thereafter.

10. Upon being so served/given inspection, the petitioner shall, if necessary, give an additional reply in the light of such documents. Such additional reply shall be given within an outer limit of 21 days from such inspection/furnishing of copies of documents.

11. The respondent-Bank in each of the cases shall thereafter fix an early date for hearing the petitioner. Upon such hearing being concluded, the respondent-Bank in each of the cases shall take a reasoned decision as to whether or not to declare the petitioner as "fraud" or "perpetrator of fraud". In the event the petitioner is declared to be fraud/perpetrator of fraud, the same shall be intimated in due course of law to the RBI and appropriate consequential steps under the Master Directions of the RBI shall be taken by the respondent-Bank in each of the cases.

12. There will be no order as to costs. Urgent certified server copies, if applied for, be issued

to the parties upon compliance of due formalities."

(Sabyasachi Bhattacharyya, J.)