

D/L. 8.
January 25, 2024.
MNS.

WPA No. 23783 of 2023

Prakash Chandra Agarwalla
Vs.
The Union of India and others

Mr. Sankarsan Sarkar,
Mr. Aditya Kanodia,
Mr. Avik Sengupta,
Mr. Shivam Banerjee

... for the petitioner.

Mr. Ashok kumar Chakraborty, Ld. ASG,
Mr. Kumar Jyoti Tewari

...for the respondent nos. 1 to 4.

Mr. Sourjya Roy

...for the UCO Bank.

1. Learned counsel for the petitioner submits that the petitioner is a co-guarantor in respect of a particular loan from the respondent-Bank.
2. When the petitioner sought to leave the country, he was resisted, apparently on the premise that a Look Out Circular (LOC) had been issued against him on the request of the respondent-Bank, that is, the UCO Bank.
3. Upon previous direction of this court, learned counsel for the bank hands over a copy of the request of the bank for issuance of LOC in a sealed envelope, which is opened in Court by direction of the Court.

4. A bare perusal of sub-head 'IV' of the said request shows that the only reason for opening of LOC given therein by the Bank is that the petitioner "is a Promoter and Guarantor of a Non-performing Account" of the said bank.
5. Although it is denied by the petitioner that the petitioner is a promoter, even without going into such issue, the reason given for issuance of LOC does not satisfy the governing Circulars issued by the Government which hold the field regarding issuance of LOCs, which require the exit of a person from the country to affect the economic interests of the country or to directly and adversely affect public interest for an LOC to be issued.
6. The mere allegation that the petitioner is a Promoter and Guarantor of a Non-performing Account in the bank, without anything else, at best furnishes cause of action for the bank to initiate recovery proceedings in accordance with law.
7. However, the same does not satisfy the high ground of issuance of an LOC, which has been repeatedly held by several High Courts in various judgments not to be a substitute of recovery proceedings.

8. Hence, the request of the bank as well the consequential LOC against the petitioner are required to be set aside and quashed.
9. Accordingly, WPA No. 23783 of 2023 is allowed on contest, thereby setting aside and quashing the LOC issued against the petitioner as well as the request made by the respondent-Bank for issuance of such LOC.
10. The Immigration Authorities shall take immediate steps to reverse all steps which have been taken in pursuance of the LOC, including communication to the relevant authorities, who have been informed about the LOC, to ensure that free movement of the petitioner in and out of the country is not interdicted on the basis of the quashed LOC.
11. There will be no order as to costs.
12. The parties shall act on the server copy of this order without insisting upon prior production of the certified copy thereof, for immediate compliance.
13. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)