

OD 5

WPO/336/2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

ANIL KUMAR KEDIA
VS
STATE BANK OF INDIA AND ORS

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 29th April, 2024.

Appearance:

Ms. Noelle Banerjee, Adv.

Mr. Dipak Dey, Adv.

Ms. Sucheta Mitra, Adv.

Mr. Aniket Ojha, Adv.

. . .for the petitioner.

Mr. Soumya Roy, Adv.

Mr. Benazir Kazi, Adv.

. . .for the respondent no.1.

The Court: Affidavit of service filed in Court be taken on record.

The petitioner is the whole-time director of a company. The present challenge is against classification of the petitioner and his account as “fraud” under the Master Directions of the Reserve Bank of India on Frauds - Classification and Reporting dated July 1, 2016 (updated as on July 3, 2017). The petitioner, it is alleged, was not given an opportunity of representation/hearing before such classification.

Learned counsel for the respondent argues that the petitioner is merely entitled to a prior notice of hearing.

Learned counsel for the petitioner, however, relies on an unreported judgment of this Court dated October 17, 2023 passed in WPA 21123 of 2023,

where a promoter of the self-same company was absolved of such classification on the ground of violation of the principle of *audi alteram partem*. In the said judgment, it was held that the petitioner had not been given a prior notice of hearing before such fraud classification. It is also observed that the principle of natural justice, *audi alteram partem*, has to be necessarily read into the Master Directions on frauds, since the outcome of such a classification would seriously affect the civil rights of the accused persons and have penal consequences.

In such view of the matter, WPO 336 of 2024 is allowed on contest, thereby setting aside the classification of the petitioner and his accounts as fraud under the RBI's circular dated July 1, 2016 (updated as on July 3, 2017), consequentially setting aside all consequential actions taken on the basis of such classification issued by the respondent authorities, if any.

In the event the respondent authorities are so entitled, the said authorities may revisit the exercise of such classification upon giving a prior notice and opportunity of hearing to the petitioner. The merits and contentions of the parties regarding the allegations made against the petitioner have not been gone into by this Court. Since no affidavits have been directed, it is deemed that none of the allegations made in the writ petition are admitted.

No order as to costs.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)