

ORDER SHEET

WPO/510/2024
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

VINOD GUPTA AND ANR.
VS
STATE BANK OF INDIA

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 27th June, 2024.

Appearance:
Mr. Chayan Gupta, Adv.
Mr. Aditya Kanodia, Adv.
Ms. Shreya Trivedi, Adv.
...For the Petitioners

Mr. Shiv Mangal Singh, Adv.
...For the respondent Bank

The Court: The petitioners submit that the forensic audit report was not supplied to the petitioners in its entirety, before the petitioners were asked to answer to the show cause notice.

It is contended that the allegation by the bank that the petitioners were directors of the company when fraudulent transactions took place, could only be dealt with by the petitioners if they had the entire forensic report. Hence, it is prayed that the declaration of fraud be set aside on the ground of violation of principles of natural justice. It is next contended that the petitioners were not heard.

Learned Advocate for the bank submits that if the corporate veil is lifted, it will be found that all allegations were against the directors who were in-charge of the management and the affairs of the company. It is next contended that the relevant portions of the forensic report dealing with the fraudulent transactions were supplied.

Having heard the contentions of the parties, this Court is of the view that natural justice demands that if any report is used against a person, such person should be allowed to deal with such report. It is not for the bank to decide which were the relevant pages necessary for the petitioners to prepare their answer to the show-cause. The petitioners were within their right to consider the entire report and thereafter prepare their reply to the show-cause notice. It is also pertinent to mention that the hearing in person should have been given to the petitioners.

Under such circumstances, the writ petition is disposed of by setting aside the declaration of fraud in respect of the petitioners. The bank shall re-visit the issue upon supplying the entire forensic audit report to the petitioners. Such report shall be furnished within two weeks, to each of the petitioners. The petitioners shall file their individual replies to the said show-cause notice within four weeks thereafter. Thereafter, the bank shall give each of the petitioners personal hearing and dispose of the matter within six weeks therefrom.

Needless to mention, if the petitioners fail to appear without any just cause, the bank may proceed accordingly.

This Court also finds that orders are very cryptic and supporting reasons and documents which led the bank to come to such conclusion of fraud are absent.

All the parties are to act on the basis of the server copy of this order.

(SHAMPA SARKAR, J.)

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