

S.R.JOSHI

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 336 OF 2020

Avera Resource Pvt. Ltd.,  
& Another

... Petitioners

*Versus*

Punjab National Bank  
& Others

... Respondents

Mr. Ankit Lohia with Ms. Krishna, Mr. Kewal Budhdev i/b. Link Legal,  
for the Petitioners.

Mr. O. A. Das, for Respondent No.1.

Mr. Prasad Shenoy with Ms. Aditi Pathak, Vijay Salokhe i/b. BLAC &  
Co., for Respondent No.4- RBI.

SMITA  
RAJNIKANT  
JOSHI

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SMITA RAJNIKANT  
JOSHI  
Date: 2024.02.05  
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CORAM: G. S. KULKARNI &  
FIRDOSH P. POONIWALLA, JJ.  
DATED: 1<sup>st</sup> FEBRUARY, 2024

P.C.

We have heard learned Counsel for the parties.

2 This Petition is filed for the following reliefs:-

*“(a):- It is, therefore, humbly prayed that this Hon’ble Court may kindly be pleased to allow the Writ Petition and be further pleased to issue a writ in the nature of mandamus/ Certiorari or any other suitable writ order or direction to grant the following relief (s):-*

*(i) Decision/ communication vide communication dated 09/09/2019 and orders not communicated may kindly be quashed as against the Petitioners and/or;*

*(ii) Direct the Respondents to provide evidence relied on by them to declare the Petitioners as willful defaulters;*

*(iii) Direct the Respondents to allow Petitioners to argue their case before committee and further direct the Respondent Nos. 2 and 3 to pass reasoned orders in line with pronouncement by Hon'ble Apex Court in case of SBI v/s. Jah Developers;*

*(b) Stay the operation of communication dated 09/09/2019 and orders un-communicated as against the Petitioners;*

*(i) This Hon'ble Court be pleased to declare the RBI Guidelines dated 01.07.2015 issued by the Respondent No.4 as ultra vires to the provisions of the Reserve Bank of India Act, 1934 and the Constitution of India and in furtherance of the same, this Hon'ble Court be pleased to quash and set aside the RBI Guidelines dated 01.07.2015.*

*(c) Ad-interim relief in terms of prayer (b) herein;*

*(d) To pass any other or further order(s) deemed fit and necessary in the facts and circumstances of the matter;*

*(e) For costs."*

3           We are of the opinion that, in the peculiar facts and circumstances of the case, it would be appropriate that the Petitioners be heard by the Identification Committee on the basis of the reply filed by the Petitioner and other documents that the Petitioners intend to place on record before the Identification Committee.

4           Let the Identification Committee follow the guidelines of RBI dated 1<sup>st</sup> July, 2015 while taking the decision in the Petitioners' case.

5           Needless to observe that, after the Identification Committee takes a decision, the Petitioners would have an opportunity, if the orders/ decisions of the Identification Committee are adverse to the Petitioners, to raise all contentions before the Review Committee as per the guidelines of RBI.

6           Let the appropriate procedure be followed by Respondent No.1 in that regard in accordance with law.

7           Let an appropriate decision be taken by the Identification Committee as expeditiously as possible, and, in any event, within a period of three months from today.

8           Petitioners are at liberty to request Respondent No.1 for appropriate documents. If the same are available, they be provided to the Petitioners so that they can be placed for consideration at the hearing before the Identification Committee.

9           Needless to observe that, in the event, Petitioners do not co-operate or do not remain present at the hearing, Respondent No.1 and its appropriate Committees are free to proceed and pass appropriate orders as the law may permit.

10          Keeping all contentions of the parties open, Writ Petition is disposed of in the aforesaid terms. No costs.

**(FIRDOSH P. POONIWALLA, J.)**

**(G. S. KULKARNI, J.)**