IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3871 OF 2024

Yog Navalkumar Bhoot, Age: 45 Yrs., Occ:Consultant & Broker, R/o DEEGEE Estate, Deorankar Nagar, Amravati, Tah. & Dist. Amravati. **PETITIONER**

VERSUS

1. Union of India, Through Principal Secretary, Ministry of Home and Affairs, New Delhi.
2. The State of Maharashtra, Through Principal Secretary, Ministry of Home Affairs, Mantralaya, Mumbai.
3. Bureau of Immigration, Through Commissioner of Immigration, Having its Office at # Head Office: East Block-VIII, Level-V, Sector-1, Rama Krishna Puram, New Delhi.

   #Regional Office: Chhatrapati Shivaji International Airport, Navapada, Vile Parle (East), Vile Parle, Mumbai, Maharashtra 400 099.
4. UCO Bank Ltd., Through Recovery Officer, Recovery Department, Head Office, Kolkata. **RESPONDENTS**

Shri R.M. Tahaliyani, Counsel for the petitioner.
Shri N.S. Deshpande, Deputy Solicitor General of India for the respondent nos.1 and 3.
Shri A.M. Kadukar, Assistant Government Pleader for the respondent no.2.
Shri M.Y. Wadodkar, counsel for the respondent no.4.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.
DATE ON WHICH ARGUMENTS WERE HEARD : AUGUST 05, 2024
DATE ON WHICH JUDGMENT IS PRONOUNCED : SEPTEMBER 19, 2024

JUDGMENT (PER : NITIN W. SAMBRE, J.)

RULE. Rule made returnable forthwith and the writ petition is heard finally with consent of the learned counsel for the parties.

2. By this writ petition, the petitioner has sought a declaration that the communication issued by the respondent no.4-UCO Bank (for short, 'the respondent-Bank') to the respondent no.3-Bureau of Immigration (for short, 'the respondent-Bureau'), dated May 20, 2023 as also the Look Out Circular, if any operating against the petitioner stands quashed or in the alternative, quash and set aside the communication dated May 20, 2023 as also any Look Out Circular operating against the petitioner and issued at the behest of the respondent no.4.

3. It is the case of the petitioner that he was appointed as a consultant by a Private Limited Company for identifying potential suppliers in other Asian countries. For the said purpose, he had planned a travel on May 20, 2023 for exploring markets, understand terms and conditions of supply. However, the respondent-Bank had already instructed the respondent no.3-Bureau of Immigration in the country of origin i.e. India of which the petitioner is a citizen, thereby imposing travel restrictions.

4. According to the counsel for the petitioner, the issue is squarely covered by the Division Bench judgment of this Court delivered at the Principal Seat in *Viraj Chetan Shah Versus Union of India & Another* [**Writ Petition No. 719 of 2020 with other connected petitions**], pronounced on April 23, 2024. The counsel for the petitioner would invite our attention to the observations made in paragraphs 194 and 195 of the said judgment, which read thus :-

"194. For these reasons, we believe the Petitions will succeed in part. We return to the questions we had formulated at the beginning, with our answers against each.

Q No	*Question*	*Finding*
I	*Can the right to travel abroad, part of the fundamental right to life under Article 21 of the Constitution of India, be curtailed by an executive action absent any governing statute or controlling statutory provision?*	*No*
II	*Is the entire field of controlling entry and exit from India's borders already fully occupied by a statute, viz., the Passports Act 1967 and, if so, can the OMs authorise the issuance of such LOCs de hors the Passport Act?*	*The field is not fully occupied by the Passports Act. The OMs may validly authorise the issuance of LOCs in cases other than the ones under consideration in the cases before us (for instance, at the request of another agency or following an order of a Court).*
III	*Are the OMs per se arbitrary and unconstitutional as ultra vires Articles 14 and 21 of the Constitution of India?*	*No.*
IV	*Is the inclusion of Chairman/Managing Directors/CEOs of all public sector banks in Clause 6(B)(xv) of the 22nd February 2021 OM, effected by the previous amendment, bad in law and liable to be struck down on the ground of (a) arbitrariness; (b) unreasonableness (c) improper and invalid classification; or (d) conferment/delegation of uncanalised and excessive power?*	*On all these grounds and others as analysed above, YES.*
V	*Is Clause 6(L) of the 22nd February 2021 OM to the extent it is applied to PSBs ultra vires Articles 14 and 21 of the Constitution of India, as also arbitrary, unreasonable and disproportionate inter alia because the financial interests of a particular bank or even a group of banks or all public sector banks together cannot*	*Is not required to be decided.*

	unreasonably, rationally or logically be equated with or be placed on the same level as the 'economic interests of India'?	
VI	*Is Clause 6(J) of the 22nd February 2021 OM liablew to be quashed in its entirety as being ultra vires Articles 14 and 21 of the Constitution of India, as also per se and manifestly arbitrary, unreasonable and disproportionate because it allows LOCs to continue until cancelled instead of providing a fixed term for them?*	*No.*
VII	*Are the impugned LOCs–*	
(i)	*Ultra vires the OMs*	*Does not arise*
(ii)	*Ultra vires Articles 14 and 21 of the Constitution of India (including for infringing a fundamental right except according to a procedure established by law; and a failure to abide by mandated minimum procedural norms; unreasonableness; arbitrariness; want of proportionality), and*	*Yes.*
(iii)	*Arbitrary, unreasonable and disproportionate in equating the financial interest of a public sector bank with the 'the economic interests of India'.*	*Does not require to be decided.*

195. Consequently:

(a) Clause 8(b)(xv) of the 2010 amended OM (equivalent to Clause 6(B)(xv) of the 2021 consolidated OM) which includes the Chairmen, Managing Directors and Chief Executive Officers of all public sector banks as authorities who may request the issuance of a Look Out Circular is quashed.

(b) All the LOCs are quashed and set aside.

(c) The Bureau of Immigration will ignore and not act upon any LOCs issued by any public sector banks. All databases will be updated accordingly. We do not expect the public sector banks to do this, and therefore direct the Bureau of Immigration or MHA to do the needful.

(d) All authorities at all ports of embarkation will be informed and apprised accordingly.

196. Further:

(a) This order will not and does not affect any existing restraint order issued by a competent authority, court, tribunal or investigative or enforcement agency, or in enforcement of any order of a court. Where, for instance, the DRT or a criminal court has issued a restraint order (even if this is at the instance of public sector bank), that order will continue to operate. The invalidation of the present LOCs cannot and will not affect such orders.

(b) The banks are also always at liberty to apply to any court or tribunal under applicable law for an order against an individual borrower, guarantor or person indebted restraining such person from travelling overseas.

(c) In addition, the banks may invoke powers under the Fugitive Economic Offenders Act, 2018, where applicable, notwithstanding this judgment in regard to any LOC.

(d) This judgment cannot and will not prevent the Union of India from framing an appropriate law and establishing a procedure consistent with Article 21 of the Constitution of India."

As such, he would urge that the writ petition needs to be allowed.

5. The respondent-Bank has resisted the claim alleging that the petitioner is a chronic defaulter of several banks which have taken steps against the group companies and its Directors related to the petitioner to save public money. The apprehension is expressed that the petitioner may run away from the country.

6. We have considered the rival claims.

7. From observations of the Division Bench in *Viraj Chetan Shah* (supra) referred above, it can be seen that that it was already declared that the right to travel being a fundamental right under Article 21 of the Constitution of India cannot be curtailed by an executive action absent any governing

statute or controlling statutory provision. The Court further held that the LOCs are *ultra vires* Articles 14 and 21 of the Constitution of India.

8. As such, the issue sought to be raised in the present writ petition is squarely covered by the Division Bench judgment of this Court in *Viraj Chetan Shah* (supra). In this view of the matter, we deem it appropriate to allow the writ petition in terms of Prayer Clause (i), which reads thus :-

> "*Alternatively quash and set aside communication dated 20/05/2023 issued by Respondent no.4 to Respondent no.3 (Annexure P-1) as also any LOC that may be operating against the Petitioner and issued at the behest of Respondent no.4.*"

9. Rule is made absolute in aforesaid terms. No costs.

(ABHAY J. MANTRI, J.) **(NITIN W. SAMBRE, J.)**

APTE

Signed by: Apte
Designation: PS To Honourable Judge
Date: 19/09/2024 15:37:20