IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **23.01.2024**

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

W.P.No.600 of 2024

State Bank of India,
Represented by its Regional Manager,
K.Nagendran,
State Bank of India, RBO-III.
Regional Business Office, No.4, 1st Floor,
State Bank Road, Erode – 638 001. ... Petitioner

Vs.

Central Bureau of Investigation,
Anti-Corruption Branch,
III Floor, Shastri Bhavan,
Haddows Road,
Chennai – 600 006. ... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, pleased to issue a Writ of Mandamus or any other writ, order or direction in the nature of writ mandamus, directing the respondent to register a First Information Report in terms of the circular dated 01.07.2016 issued by the Reserve Bank of India vide RBI/DBS/2016–17/28DBS.CO.CFMC.BC.No.1 /23.04.001/2016-17 and on the basis of the complaint dated 01.12.2023 lodged by the petitioner with the respondent vide RM-III-CR-P&C-168.

For Petitioner : Mr.Nithyaeash Natraj

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor for CBI.

ORDER

The Writ Petition has been filed seeking to direct the respondent to register a First Information Report in terms of the circular dated 01.07.2016 issued by the Reserve Bank of India vide RBI/DBS/2016–17/28DBS.CO. CFMC.BC.No.1/23.04.001/2016-17 and on the basis of the complaint dated 01.12.2023 lodged by the petitioner with the respondent vide RM-III-CR-P&C-168.

2. The submissions of learned counsel Mr.Nithyaeash Natraj appearing for the petitioner is as follows:-

2.1. The petitioner Bank is Public Sector Bank and being the largest Bank in India, there are lakhs of persons who are on the payrolls of the petitioner Bank.

2.2. One Mr.Abhijeet Kumar, who is the suspected employee, during his tenure as Branch Manager at the Ayyansalai Branch of the petitioner Bank between 25.06.2021 and 22.10.2021, in collusion with other unknown employees and customers of the Bank, by involving in fraudulent activities, corrupt practices and by flouting banking norms and rules, had sanctioned several loans based on forged documents to ineligible borrowers, by accepting bribe and thereby, caused heavy loss to the Bank to the tune of Rs.3.87 Crores.

2.3. The fraud committed by the suspected employee came to light during the Risk Focussed Internal Audit (RFIA) conducted by the Bank at Ayyansalai Branch. The disciplinary proceedings were initiated against the said Abhijeet Kumar and other staff involved in the offence. Later, in order to escape from the clutches of law, the said Abhijeet Kumar has tendered his resignation.

2.4. The Bank had preferred a complaint to the Superintendent of Police, Erode, on 06.12.2021. Subsequently, on 21.03.2022 and 07.04.2022, the petitioner issued communications with all details and documents in connection with the original complaint filed on 06.12.2021. Thereafter, the Regional Manager was summoned for enquiry and pursuant to the same, he appeared and produced all the details and documents, however, later, by a communication dated 04.08.2023, the District Crime Branch, Erode, stating that the amount involved in the fraud committed by the delinquent employees in both Ayyansalai Branch and Sathyamangalam Branch is to the tune of Rs.27.69 Crores, had returned the complaint and directed the petitioner Bank to approach the appropriate authority, referring to the directions issued by the Reserve Bank of India (Frauds Classification and reporting by commercial banks and select F1s) on 01.07.2016 in Reserve Bank of India RBI/DBS/2016-2017/28 DBS.CO.CFMC.BC.No.1/23.04.001/2016-17.

2.5. Meanwhile, the petitioner bank had also preferred a complaint to the respondent vide letter No.RM-III-CR-P&C-40 dated 21.06.2023, for which, the respondent had issued a communication No.C6/RA-27/2023/CBI/ACB/CHN/2023/3276/3336 dated 22.08.2023, by which it refused to take up the case and returned the complaint stating that as the outstanding amount of an individual account is less than Rs.3 Crores, this matter does not fall under the purview of CBI.

2.6. Thereafter, the petitioner Bank had again sent a complaint in RM-III-CR-P&C-168 dated 01.12.2023 to the respondent, to take up the case. However, no action has been taken by the respondent till date. It is the further case of the petitioner that a sum of Rs.27.69 Crores of public funds in both the Ayyansalai Branch and Sathyamangalam Branch, had been cheated by the culprits which would result in causing loss not only to the petitioner bank but also to the economic growth of the country.

2.7. The petitioner bank is being shuttled between the District Police and CBI on account of technicalities. The respondent ought to have registered a case and conducted the investigation in order to protect the interest of the Bank. Inaction on the part of the respondent is without any justification. Thereby, the present Writ Petition has been filed.

3. The Special Public Prosecutor for CBI cases on instructions from the respondent submitted that as per the directions of Reserve Bank of India vide its Master Circular dated 01.07.2016 (Frauds Classification and reporting by commercial banks and select FIs) in RBI/DBS/2016-2017/28 DBS.CO.CFMC.BC.No.1/23.04.001/2016-17, the Reserve Bank of India has classified the frauds committed and issued certain guidelines for reporting frauds to Police/CBI in Chapter VI. Since the amount involved in the complaint in respect of the Ayyansalai Branch is less than Rs.3Crores, the respondent had expressed its inability to take up the case. He would however submit that subject to the orders passed by this Court, the respondent is ready to proceed in accordance with law.

4. For better appreciation, the relevant Chapter (Chapter VI) of the Master Circular on "Frauds – Classification and Reporting" dated 01.07.2016 issued by the Reserve Bank of India under Section 35 A of the Banking Regulation Act, 1949 is extracted hereunder:-

CHAPTER VI

6. Guidelines for Reporting Frauds to Police/CBI

6.1 In dealing with cases of fraud/embezzlement, banks should not merely be actuated by the necessity of recovering expeditiously the amount involved, but should also be motivated by public interest and the need for ensuring that the guilty persons do not go unpunished. Therefore, as a general rule, the following cases should invariably be referred to the State Police or to the CBI as detailed below:

Category of bank	Amount involved in the fraud	Agency to whom complaint should be	Remarks
Private Sector/ Foreign Banks	Rs.10000 and above	State Police	If committed by staff
	Rs.0.1 million and above	State Police	If committed by outsiders on their own and/or with the connivance staff/officers. of bank
	Rs.10 million and above	In addition to State Police, SFIO, Ministry of Corporate Affairs, Government of India. Second Floor, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi 110 003.	Details of the fraud are to be reported to SFIO in FMR Format
Public Sector Banks	<u>Below 30 million</u> 1. Rs.10,000/- and above but below Rs.0.1 million	State Police	If committed by staff
	2. 01 million and above but below Rs.30 million	To the State CID/Economic Offences Wing of the State concerned	To be lodged by the Regional Head of the bank concerned
	Rs. 30 million and above and up to Rs.250 million	CBI	To be lodged with Anti Corruption Branch of CBI (where staff involvement is prima facie evident)

Category of bank	Amount involved in the fraud	Agency to whom complaint should be	Remarks
			Economic Offences Wing of CBI (where staff involvement is prima facie not evident)
	More than Rs.250 million and up to Rs.500 million	CBI	To be lodged with Banking Security and Fraud Cell (BSFC) of CBI (irrespective of the involvement of a public servant)
	More than Rs.500 million	CBI	To be lodged with the Joint Director (Policy) CBI, HQ New Delhi

6.2 All fraud cases of value below Rs.10,000/- involving bank officials, should be referred to the Regional Head of the bank, who would scrutinize each case and direct the bank branch concerned on whether it should be reported to the local police station for further legal action."

5. Heard the learned counsel for the petitioner and the learned Special Public Prosecutor for CBI cases and perused the materials available on record.

6. It is the case of the petitioner that the suspected employee of the petitioner Bank, in collusion with other unknown staff members and customers

of the Bank, had committed fraud and cheated the Bank to the tune of Rs.27.69 crores in Ayyansalai Branch and Sathyamangalam Branch. The complaint given to the State Police has been returned and they had refused to take up the case stating that it is beyond their pecuniary limit. The complainant is a public sector bank. The value of the fraud alleged to be committed is Rs.27.69 Crores which would cause loss to the economic growth of the country. The petitioner/complainant cannot be shuttled between two agencies on the grounds of technicalities. Further, since, the amount of fraud involved is more than three crores, as per the directions issued by the Reserve Bank of India in Clause 6.1, the respondent, the Anti-Corruption Branch of CBI has to register the case and proceed in accordance with law.

7. In view of the above, this Writ Petition stands allowed with a direction to the respondent to register the case and proceed in accordance with law and file the final report as expeditiously as possible. No costs.

23.01.2024

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
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To

1. Central Bureau of Investigation,
   Anti-Corruption Branch,
   III Floor, Shastri Bhavan,
   Haddows Road, Chennai – 600 006.

2. The Special Public Prosecutor,
   High Court of Madras.

A.D.JAGADISH CHANDIRA.,J

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