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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 657/2024 & CM APPL. 2985-2987/2024**

SHALINI CHOUDHARY

..... Petitioner

Through: Mr. Sameer Jain, Mr. Love Kumar
Gupta and Mr. Ashvin Raj Jaiswal,
Advs. M: 8299595472

versus

STATE BANK OF INDIA & ANR.

..... Respondents

Through: Mr. Rajiv Kapur, Mr. Akshit Kapur &
Mr. Aditya Saxena, Advs. For SBI.

+ **W.P.(C) 691/2024 & CM APPL. 3069-3070/2024, CM APPL.**

3240/2024

ANANT KUMAR CHOUDHARY

..... Petitioner

Through: Mr. Sameer Jain, Mr. Love Kumar
Gupta and Mr. Ashvin Raj Jaiswal,
Advs. M: 8299595472

versus

STATE BANK OF INDIA & ANR.

..... Respondents

Through: Mr. Rajiv Kapur, Mr. Akshit Kapur &
Mr. Aditya Saxena, Advs. For SBI.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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18.01.2024

CM APPL. 2985-2987/2024 in W.P.(C) 657/2024, CM APPL. 3069-3070/2024 & CM APPL. 3240/2024 in W.P.(C) 691/2024

1. Exemptions allowed, subject to just exceptions.



2. Applications are disposed of.

W.P.(C) 657/2024 & W.P.(C) 691/2024

3. The present writ petitions have been filed by the petitioners under Article 226 of the Constitution of India, 1950, alleging gross abuse of power by the Willful Defaulters Identification Committee (“WDIC”) of the respondent no.1–State Bank of India (“SBI”) for declaring petitioner as a willful defaulter and directing publication of his name in the list of willful defaulters prepared by the Credit Information Companies (“CIC”).

4. It is submitted that the action of the WDIC in issuing two virtually identical and duplicate orders on different dates i.e., 20th January, 2023 and 15th September, 2023 declaring the petitioners as willful defaulters and publishing their name on the CIC’s list, violate the Principles of Natural Justice.

5. It is submitted that the second order dated 15th September, 2023 passed by the respondent no.1 is identical and appears to be directly copied from the first order i.e., 20th January, 2023.

6. It is submitted that the review application filed by the petitioners against the order dated 20th January, 2023 is still pending before the Review Committee of the respondent no.1–SBI under the Reserve Bank of India (“RBI”) Master Circular.

7. It is submitted that despite pendency of the application for review before the Review Committee, the respondent no.1–SBI has passed the two identical orders dated 20th January, 2023 and 15th September, 2023 without granting any hearing to the petitioners.

8. It is submitted that the proceedings conducted by the SBI are governed by the RBI Master Circular which exclusively requires for an



opportunity of hearing to be given to the borrower or the promoter/whole time director, if deemed necessary.

9. Learned counsel appearing for the petitioners has drawn the attention of this court to the order dated 25th August, 2021 passed in *CM(M) No. 536/2021*, wherein there were directions to the respondent no. 1–SBI to grant hearing to the petitioner through video conferencing. He submits that email dated 30th November, 2022 was issued to the petitioners wherein the petitioners were called for physical hearing on 21st December, 2022, which was in total violation of the directions passed by this court vide order dated 25th August, 2021

10. It is submitted that by email dated 09th December, 2022, the petitioner i.e., Mr. Anant Kumar Choudhary submitted that he shall be joining the physical hearing for himself and also on behalf of Ms. Shalini Choudhary. However, it is submitted that subsequently by email dated 16th December, 2022 issued by respondent no.1–SBI, the date fixed for hearing of the petitioners, was postponed. Subsequently, by email dated 08th January, 2023, the petitioner i.e., Mr. Anant Kumar Choudhary confirmed his presence for physical hearing to be conducted on 20th January, 2023.

11. It is submitted that, however, by email dated 16th January, 2023, the petitioner, i.e., Mr. Anant Kumar Choudhary, informed the respondent no. 1–SBI that he had been infected by covid-19, due to which it was not possible for him to appear for physical hearing on the date fixed.

12. It is submitted that the petitioner was declared as a defaulter vide order dated 20th January, 2023, the day on which the hearing was fixed, for which the petitioner had already expressed his inability to appear due to his covid-19 infection.



13. It is submitted that against the aforesaid order dated 20th January, 2023, the petitioner filed an application dated 24th February, 2023 before the Review Committee of Willful Defaulters, SBI.

14. It is submitted that while the review application of the petitioner was still pending, the petitioner received another email dated 29th August, 2023 for hearing on 15th September, 2023.

15. The petitioner i.e., Mr. Anant Kumar Choudhary by his email dated 29th August, 2023 requested for hearing by virtual mode since the petitioner was in Vancouver, Canada at that point of time.

16. Attention of this court has been drawn to the email dated 12th September, 2023, wherein it is stated that the time of personal hearing has been changed from 11:00 A.M. Indian Standard Time (“IST”) to 03:00 P.M. IST.

17. It is submitted that since the petitioner was in Vancouver, Canada at that point of time, the petitioner was required to attend the hearing through video conferencing at the SBI, Canada Bank, 6433, Fraser St, Vancouver, BC V5W 3A6, Canada as per the email dated 12th September, 2023 issued by the respondent no.1 –SBI.

18. It is submitted that the re-fixed time of 03:00 P.M. (IST) was local time at 02:30 A.M. at night in Vancouver, Canada. Therefore, it was not possible for the petitioner to attend the said video conferencing hearing by travelling to the Canada Bank situated in Vancouver, Canada at 02:30 A.M. at night.

19. Learned counsel appearing for the petitioner has also drawn the attention of this court to the email dated 13th September, 2023, wherein the petitioner requested for another opportunity for hearing, since he was unable



to attend the video conferencing hearing held on 15th September, 2023.

20. However, despite the request of the petitioner for re-fixing the date of hearing, by order dated 15th September, 2023, the second order which has been impugned in the present proceedings, was passed respondent no.1-SBI, again declaring the petitioner herein as willful defaulter. Thus, it is submitted that two orders viz. order dated 10th January, 2023 and 15th September, 2023, have been passed by respondent no.1-SBI under the same regulation twice, without granting any proper hearing to the petitioner.

21. Per contra, learned counsel appearing for respondent no.1-SBI on advance notice submits that no directions passed by this court have been violated.

22. He draws the attention of this court to the order dated 25th August, 2021 passed in *CM(M) No. 536/2021*, in particular to paragraph 7(i), wherein it had been directed that in the event travel restrictions between India and Thailand were removed, the petitioners would physically present themselves before the respondent no.1-SBI for grant of personal hearing before the WDIC.

23. Thus, it is submitted that since there were no travel restrictions in place at that point of time, therefore, the respondent no.1-SBI had accordingly issued emails to petitioners for their physical appearance before the WDIC of respondent no. 1-SBI in India.

24. Learned counsel appearing for the respondent no.1-SBI further submits that two opportunities were granted to the petitioners for hearing through video conferencing in Thailand as well as in Canada, however, the petitioners did not avail the said opportunities.

25. He further submits that the review application of the petitioners



before the Review Committee is still pending and that the orders 20th January, 2023 and 15th September, 2023 declaring the petitioners as defaulters, have still not been confirmed by the Review Committee.

26. He further relies upon the order dated 13th March, 2023 passed by Coordinate Bench of this court in *W.P.(C) No. 12672/2022*.

27. Learned counsel for respondent no.1, thus, submits that opportunity of physical hearing as well as video conferencing hearing was duly granted to the petitioners. However, the said submission of respondent no.1 is disputed by learned counsel for the petitioners.

28. I have heard learned counsel for the parties and perused the record.

29. Perusal of the record clearly shows that the review petition of the petitioners is still pending before the Review Committee of respondent no.1-SBI. The Review Committee is yet to pass any order in terms of the RBI Master Circular and the status of the petitioners as defaulters, has still not been confirmed by the Review Committee of the SBI.

30. In view thereof, it is directed that the petitioners shall submit detailed representation to the Review Committee of Willful Defaulters of respondent no.1-SBI raising all the objections with respect to non-grant of hearing to them.

31. The Review Committee of Willful Defaulters ("Review Committee") of respondent no.1-SBI shall consider the representation of the petitioners in accordance with law.

32. In view thereof, liberty is granted to the petitioners to approach the aforesaid Review Committee of respondent no.1-SBI by filing detailed representation within a period of four weeks from today. If such a representation is received by the Review Committee of respondent no. 1-



SBI, the same shall be considered and decided in accordance with law by passing a reasoned order, which shall be communicated to the petitioners immediately thereafter.

33. It is further directed that once an order is passed by the Review Committee, the same shall not be given effect to for a period of fifteen days to enable the petitioners to take appropriate recourse in accordance with law.

34. This court clarifies that it has not commented on the merits of the case advanced on behalf of either of the parties. All the rights and contentions of both the parties are left open.

35. With the aforesaid directions, the present writ petitions are disposed of along with pending applications.

MINI PUSHKARNA, J

JANUARY 18, 2024/kr