

20-01-2025
Item No.3
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

WPA No.920 of 2025
Vijay Bothra
-vs-
Indian Overseas Bank & Anr.

Mr. Sabyasachi Chowdhury, sr. adv.
Mr. Rajarshi Dutta, adv.
Mr. Sanjib Dawn, adv.
Mr. Aniruddha Saha Roy, adv. ...for the petitioner

Mr. R. Lakhmani, adv.
Mr. Siddharth Makkar, adv.
Mr. Pitush Kumar adv.
Ms. Pooja Saha, adv. ...for the respondents

1. The petitioner is aggrieved by the action taken by Indian Overseas Bank contrary to the direction passed by this court on December 1, 2023 in an earlier writ petition filed by the petitioner being WPA No.25317 of 2023.
2. By the said order, the court was pleased to set aside the orders of the Willful Defaulter Identification Committee and the Review Committee holding the petitioner to be a willful defaulter.
3. The court directed that the identification committee would proceed on the basis of the show-cause notice given to the petitioner by furnishing him a forensic audit report as well as other documents on which the bank seeks to rely in support of the allegation of willful defaulter.
4. The court further directed that upon copies being furnished and an opportunity of hearing being

given to the petitioner, the Willful Defaulter Identification Committee would revisit the issue and decide the question as to whether the petitioner can be declared to be willful defaulter under the relevant Master Circular of the Reserve Bank of India dated July 30, 2024.

5. The petitioner contends that the reply to the show-cause was already filed before the bank. The bank has forwarded him the forensic audit report, but thereafter the Willful Defaulter Identification Committee unilaterally recommended the proposal of identifying him to the Review Committee for declaration as willful defaulter.
6. Specific contention of the petitioner is that no opportunity of hearing was given to him by the identification committee despite order passed by the court in the earliest writ petition. The matter was directly recommended to the Review Committee. Consequently, the petitioner has lost one forum.
7. According to the bank, the court, vide its order dated December 1, 2023 in WPA No.25317 of 2023, did not specify as to which authority would grant the opportunity of hearing to the petitioner. The court merely directed opportunity of hearing to be given to the petitioner by the Willful Defaulter Committee. Therefore, the bank has directed the Review Committee to afford an opportunity of hearing to the petitioner. The same has been done strictly in accordance with the RBI Master Guidelines on Treatment of Willful Defaulters dated July 30, 2024.
8. In my opinion, the bank has practically admitted that opportunity of hearing was not given to the

petitioner by the identification committee. The action of the bank in referring to the RBI Master Guidelines dated July 30, 2024 appears to be contrary to the direction passed by the court on December 1, 2023. The initial action of the bank was taken prior to the subject RBI Master Guidelines dated July 30, 2024 coming into force.

9. The bank ought to have acted in terms of the guidelines which were prevailing on the date. Steps for declaration of the petitioner as willful defaulter have been taken by the bank relying on the RBI Circular which came into existence on a later date. The RBI Guidelines dated July 30, 2024 were not in existence when the initial steps were taken against the petitioner and when the order was passed by the court on December 1, 2023.
10. In view of the above, directing the petitioner to appear for hearing before the review committee without proper identification by the Identification Committee does not appear to be in consonance with the direction passed by the court on December 1, 2023 in the earlier writ petition. The action of the bank cannot be supported in law.
11. Hence, the writ petition stands allowed. The impugned communication of the bank dated December 20, 2024 (Annexure P12, p.270) is set aside.
12. The bank is directed to revisit the issue strictly in terms of the direction passed by the court on December 1, 2023 in WPA No.25317 of 2023.
13. All parties are to act on the server copy of this order duly downloaded from the official website of this court.
14. Certified copy of this order, if applied for, shall be

made available to the parties.

[Amrita Sinha, J]