D/L 27
07.04.2025
Court No.14
AGM

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 1434 of 2025

Anil International
Vs.
Karnataka Bank Limited & Ors.

Mr. Aditya Garodia.
Mr. Chayan Gupta.
Mr. Pourush Bandopadhyay.
Mr. Pintu Ghosh.
…for the Petitioner.

Mr. D. K. Kundu.
Mr. A. Basu.
…for the R.B.I.

Mr. Anirban Pramanick.
Mr. Punarbasu Nath.
Ms. Bhagyasree Dey.
… for the respondent no. 1.

1. Affidavit-of-service filed in Court today be kept with the records.
2. The petitioner is aggrieved by the declaration of fraud without granting any opportunity of hearing.
3. It appears that a show cause notice was issued to the petitioner and the petitioner replied to the same, but thereafter the bank, without granting any opportunity of hearing, declared the account of the petitioner as fraud.
4. It has been submitted that the bank ought to have afforded an opportunity of hearing to the petitioner in terms of the judgment delivered by the Hon'ble Supreme Court in the matter of **State Bank of India and Others –vs- Rajesh Agarwal and Others** reported in **(2023) 6 Supreme Court Cases 1**.

5. Learned advocate representing the bank strenuously submits that in view of the circular of the Reserve Bank of India dated 15th July, 2024 prescribing the Master Directions on Fraud Risk Management in Commercial Banks, there is no specific requirement of providing a separate opportunity of hearing. It has been submitted that the petitioner was issued a show cause notice to which the petitioner filed its response which was considered by the bank and thereafter the account of the petitioner was declared as fraud.

6. I have heard the submission made on behalf of both the parties and I have perused the Master Directions on Fraud Risk Management dated 15th July, 2024.

7. From the impugned order dated 30th December, 2024, it appears that the committee of the bank for scrutiny of frauds, in its meeting dated 20th December, 2024, accepted the clarification reply and justification given by the petitioner in respect of diversion of funds but did not accept the reply as regards the disposal of stock.

8. The bank, without granting any further opportunity to the petitioner, proceeded to declare the account of the petitioner as fraud.

9. It appears that the Hon'ble Supreme Court in the matter of Rajesh Agarwal (supra) have been pleased to lay down that the principles of natural justice demand that the borrowers must be served a notice, given an opportunity to explain the conclusions of the forensic audit report and be allowed to represent the banks/JLF before the account is classified as fraud.

10. The Supreme Court held that since the Master Directions on fraud do not expressly provide an opportunity of hearing to the borrowers before classifying their account as fraud, *audi alteram partem* has to be read into the provisions of the directions to save them from the vice of arbitrariness.
11. In the instant case, the bank contends that there is no requirement of granting separate opportunity of hearing to the petitioner in terms of the Master Circular, 2024.
12. The Court is of the opinion that the bank would be bound by the law laid down by the Hon'ble Supreme Court in the matter of Rajesh Agarwal (supra) as regards granting opportunity of hearing prior to declaration of fraud.
13. In view of the above, the declaration of the petitioner's account as fraud by the Karnataka Bank Limited is held to be bad in law and is, accordingly, set aside.
14. The bank is directed to grant an opportunity of hearing to the petitioner and thereafter pass a reasoned order.
15. Steps may be taken by the bank at the earliest.
16. The writ petition stands disposed of.
17. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all the requisite formalities.

(Amrita Sinha, J.)