18-03-2025
Item No.5
Subrata Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.2439 of 2025
M/s. Gupta Power Infrastructure Limited & Ors.
-vs-
IDBI Bank Limited & Ors.

Mr. Suddhasatva Banerjee, adv.
Mr. Ishaan Saha, adv.
Mr. Tanay Agarwal, adv.
Mr. Shivam Bhimsaria, adv.
Mr. Akansha Singhania, adv. ...for the petitioners

Mr. Shashwat Nayak, adv.
Mr. Santosh Kumar Ray, adv.
Ms. Antalina Gupta, adv. ...for the bank

1. The action of IDBI Bank Limited in issuing show-cause notice to the petitioners to submit response regarding declaration of the petitioners' account as fraud without supplying the documents relied upon by the bank is challenged herein. The consequent final order of the bank declaring the bank account of the petitioners as fraud is also impugned.
2. The grounds for challenge are non-supply of documents/data relied upon by the bank, non-supply of the entire copy of the forensic audit report relied upon by the bank to arrive at the aforesaid conclusion and also not granting any opportunity of hearing to the petitioners prior to passing the final order.
3. The petitioners submit that only excerpts of the forensic audit report were forwarded and not the entire one.

4. Reliance has been placed on the judgement of the Hon'ble Supreme Court dated March 27, 2023 in Civil Appeal No.7300 of 2022 (**State Bank of India & Ors. v. Rajesh Agarwal & Ors.)** in support of the submission that an opportunity of hearing ought to have been given to the petitioners prior to passing the final order.

5. Reliance has also been placed on the judgement delivered by a co-ordinate Bench of this court in WPA No.16101 of 2024 on August 7, 2024 in the matter of **Sweta Agarwal v. State Bank of India** in support of the submission that the documents relied upon by the bank ought to have been forwarded and personal hearing ought to have been given to the petitioners.

6. Prayer has been made to set aside the impugned show-cause notice and the final order consequent thereto passed by the bank.

7. Learned counsel for the bank has heavily relied upon the Master Directions on Fraud Risk Management in Commercial Banks dated July 15, 2024 in support of the submission that there was no requirement of giving a personal hearing to the petitioners prior to declaration of their account as fraud. The earlier Master Directions on Fraud Risk Management in Commercial Banks dated July 1, 2016 was superseded by the subsequent Master Directions dated July 15, 2024.

8. The judgement by the Hon'ble Supreme Court in the matter of **Rajesh Agarwal** (supra) was passed in context with the Master Directions, 2016. The *vires* of the Master Directions, 2024 are not under challenge. The bank is not under any obligation to provide any further personal hearing to the petitioners as enough

opportunities were given to them to defend themselves.

9. It has been submitted that a detailed show-cause notice disclosing all facts and figures was served upon the petitioners and an equally detailed response thereto was filed by them. When the petitioners sought for the forensic audit report, excerpts of the same were duly forwarded. Second opportunity to file response after service of the excerpts was given, which the petitioners availed of. It is only thereafter that the final order has been passed. The principle of natural justice has duly been complied with by the bank.

10. After hearing the respective submissions advanced on behalf of both the parties and on perusal of the materials on record, it is evident that the entire forensic audit report was never supplied to the petitioners by the bank and that only excerpts of the same were forwarded to them on demand. It is further admitted that personal hearing was not given to them.

11. On a perusal of the Master Directions, 2024, it does not appear that the requirement of affording hearing to the borrower has been done away with. On the contrary, the said Master Directions mention about a detailed show-cause notice to be given. The expression 'detailed show-cause notice' implies that the documents relying on which the show-cause notice is issued are also required to be forwarded along with the same. Merely issuing a detailed show-cause notice, bereft of the supporting documents, appears to be contrary to the Master Directions, 2024.

12. The Master Directions, 2024 takes note of the judgement delivered by the Hon'ble Supreme

Court in **Rajesh Agarwal** (supra) which specifies the requirement of a hearing apart from providing opportunity to explain the conclusions of the forensic audit report. Forwarding excerpts of the forensic audit report cannot be held to be compliance of the principles of natural justice. An opportunity ought to be given to the borrower to go through the entire forensic audit report, not merely excerpts of the same and thereafter make necessary submission.

13. As it appears that neither the entire forensic audit report was forwarded nor an opportunity of hearing was afforded to the petitioners after they filed the response to the show-cause notice based on incomplete data, accordingly, the show-cause notice and the steps taken in furtherance thereto are liable to be set aside and are hereby set aside.

14. It will, however, be open for the bank to take steps strictly in accordance with the Master Directions, 2024.

15. The writ petition stands disposed of.

16. Affidavit of service is taken on record.

17. All parties are to act on the server copy of this order duly downloaded from the official website of this court.

18. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]