D/L 06
19.03.2025
Court No.14
PRADIP

IN THE HIGH COURT AT CALCUTTA
<u>CONSTITUTIONAL WRIT JURISDICTION</u>

WPA 4676 of 2025
(CAN 1 of 2025)

Gupta Power Infrastructure Limited & Ors.
Vs.
Punjab National Bank & Ors.

Mr. Suddhasatva Banerjee
Mr. Ishan Saha
Mr. Tanay Agarwal
Mr. Shivam Bhimsaria
…for the Petitioners.

Mr. Supriyo Mohapatra
Ms. Kishwar Rahman
Mr. Preetam Majumddar
…for the Punjab National Bank.

1. Affidavits of service in connection with WPA 4676 of 2025 and CAN 1 of 2025 filed in Court today are taken on record.
2. Supplementary affidavit filed in Court today is also taken on record.
3. The petitioners are aggrieved by the steps taken by Punjab National Bank in declaring the bank account of the petitioners as fraud. The Punjab National Bank happens to be one of the members of the consortium banks which granted loan to the petitioners. Canara Bank being the lead bank engaged a forensic auditor and the report of the said forensic auditor was accepted and followed by the Punjab National Bank. The said report was forwarded to the petitioners by the Punjab National Bank.

4. The bank followed the Master Directions on Fraud Risk Management, 2024 and issued show-cause notice to the petitioners. According to the petitioners, the show-cause notice did not contain the supporting documents relying on which the bank declared the account of the

petitioners as fraud. Opportunity of hearing was not given to the petitioners.

5. Learned advocate for the bank submits that, as the entire forensic audit report by the lead bank was already forwarded to the petitioners, accordingly, the excerpts of the said report was forwarded to the petitioners on demand. The bank contends that, as the forensic audit report is a detailed one, there was no requirement of forwarding further documents, as all relevant data were already mentioned in the forensic audit report. Relying on the said forensic audit report, the bank proceeded to declare the account of the petitioners as fraud and also proceeded to publish the same in the newspaper.

6. The Master Directions on Fraud Risk Management in Commercial Banks dated 15th July, 2024 lays down the mechanism for declaration of the bank account as fraud. The first step for the same is issuance of a detailed show-cause notice to the borrower. The show-cause notice requires the details of the transactions/actions/events based on which declaration and reporting of fraud is contemplated.

7. Admittedly, in the instant case, the supporting documents on which fraud was declared by the bank were not forwarded by the subject bank. The bank has only relied on the forensic audit report prepared by the auditor engaged by the lead bank.

8. In one of the matters of the petitioner being WPA 2439 of 2025, this Court passed order on 18th March, 2025 setting aside the show-cause notice issued by one of the banks of the same consortium on the ground that, the show-cause notice was bereft of the supporting data and documents. The facts of the present case appear to be similar.

9. Though the learned advocate representing the bank strenuously tries to impress the Court that, necessary details to give a response to the show-cause notice was

duly available with the petitioners, the Court is not convinced with the same.

10. For the borrower to give an appropriate meaningful response to the show-cause notice, the details of the data and the supporting documents relied upon by the bank ought to have been forwarded. That not being done, the Court is of the opinion that, the show-cause notice and the steps taken pursuant thereto are not in conformity with the Master Directions of RBI and hence, liable to be set aside and are, accordingly, set aside.

11. The bank is, however, permitted to take steps in the matter strictly in accordance with the Master Directions on Fraud Risk Management, 2024.

12. The writ petition and the connected application stands disposed of.

13. 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.)