

**IN THE HIGH COURT AT CALCUTTA
(CONSTITUTIONAL WRIT JURISDICTION)
APPELLATE SIDE**

Present :

The Hon'ble Justice Partha Sarathi Chatterjee

WPA 9820 of 2021

With

CAN 1 of 2025

Riddhi Siddhi Cold Storage (P) Ltd. & Ors.

Vs.

The Punjab National Bank & Ors.

For the petitioners : Mr. Debabrata Saha Ray, Ld. Sr. Adv,
Mr. Subhankar Nag,
Mr. Dwipan Dasgupta,
Mr. Pingal Bhattacharya,
Ms. Surabita Biswas.

For the PNB : Mr. Samrat Sen, Ld. Sr. Adv.,
Mr. Abhishek Banerjee,
Ms. Parna Roy Choudhury.

Heard on : 18.07.2025

Judgment on : 05.08.2025

Partha Sarathi Chatterjee, J.:-

Prelude:

1. Four Cold Storage Companies—viz., (i) Riddhi Siddhi Cold Storage (P) Ltd.; (ii) Siddhant Vedant Cold Storage (P) Ltd.; (iii) Siddhi Vinayak Himghar (P) Ltd.; and (iv) Rajaram Sevak Multipurpose Cold Storage (P)

Ltd. (hereinafter collectively referred to as "the companies")—along with their common directors, have invoked the extraordinary jurisdiction of this Hon'ble Court to challenge the classification of their loan accounts as Non-Performing Assets (for short, NPAs) by the respondent bank, allegedly in contravention of the directives and regulatory norms issued by the Reserve Bank of India (for short, RBI) concerning the restructuring of loan accounts. Asserting their bona fide status as Micro, Small, and Medium Enterprises (for short, MSMEs), the petitioners seek the issuance of an appropriate writ, order, or direction, particularly in the nature of mandamus, commanding the respondent bank to consider and act upon their restructuring proposal in accordance with the applicable RBI guidelines.

Petitioners' Contentions:

2. Sans unnecessary details, the essential facts, as outlined in the writ petition, that led to the institution of the present writ petition are that the petitioner Nos. 1 to 4 are existing companies within the meaning of the Companies Act, 2013 (for short, "the 2013 Act"). Vide sanction letter dated 17.09.2019, the companies were extended credit facilities by United Bank of India (for short, "UBI") to the tune of Rs. 50 lakhs.
3. At the express instance and encouragement of United Bank of India (for short, "UBI"), four sick units (then classified as NPAs), namely—(i) M/s. Ma Sarada Multipurpose Cold Storage (P) Ltd., later taken over and operated as Rajaram Sevak Multipurpose Cold Storage (P) Ltd. (Petitioner No. 4); (ii) Raichanga Agro Food Processing Industries

(P) Ltd., later taken over as Riddhi Siddhi Cold Storage (P) Ltd. (Petitioner No. 1); (iii) Gouri Cold Storage (P) Ltd., later operated as Siddhi Vinayak Himghar (P) Ltd. (Petitioner No. 3); and (iv) Nabadiganta Cold Storage (P) Ltd., later taken over as Siddhanth Vedant Cold Storage (P) Ltd. (Petitioner No. 2)—were purchased by the petitioners upon categorical assurances from UBI that adequate credit facilities, including working capital limits, would be sanctioned to ensure the smooth functioning of the said units. Pursuant to such takeovers, the credit exposure of the petitioners was significantly enhanced from the initial sanctioned limit of Rs. 50 lakhs to approximately Rs. 73 crores.

4. However, the promised credit facilities were never fully disbursed by the respondent bank, resulting in severe operational difficulties for the cold storage units. It is further alleged that the land intended for ingress and egress to one of the factory premises, acquired for a consideration of Rs. 34 lakhs, was not made available, thereby indicating a defective sale on the part of the bank.
5. Despite these challenges, and notwithstanding major setbacks caused by the demonetization in 2016 and a significant decline in potato prices in 2018, the petitioners have made substantial repayments to the bank since 2009, amounting to Rs. 13.54 crore towards principal, Rs. 19.50 crore towards interest and cheques, and Rs. 105.69 crore by way of rollovers.
6. Acknowledging the adverse conditions being faced by MSMEs across the country, RBI issued a circular dated 01.01.2019. By virtue of this circular, the restructuring of loans was made mandatory for MSME units whose accounts were classified as 'standard assets' as on 01.01.2019.

The circular further emphasized that the option of restructuring was a right available to eligible MSME units.

7. Acting upon the circular dated 01.01.2019 issued by the RBI, UBI also issued a circular dated 18.01.2019 reiterating the mandates of the RBI guidelines and clarifying that the Board of Directors of UBI had approved the policy guidelines for the restructuring of loan accounts of MSMEs.
8. Subsequently, RBI issued a circular dated 24.01.2019, modifying its earlier circular dated 01.01.2019. Taking cognizance of the challenges faced by the agriculture sector, the Indian Banks' Association, by way of its circular dated 18.02.2019, directed that the restructuring scheme outlined in the RBI circular dated 01.01.2019 shall be extended to units engaged in Agriculture, Food Processing, Cold Storage, and similar sectors registered as MSMEs, enabling them to avail the benefits of the scheme. In furtherance of this directive, the General Manager of UBI issued a circular dated 22.02.2019 instructing its branches to identify agricultural units under stress that are eligible for such benefits, and to take necessary steps to ensure that their accounts are restructured in a timely manner, thereby arresting any further deterioration of these accounts and the viability of the respective units.
9. Amid these exigent circumstances, the West Bengal Cold Storage Association submitted multiple representations to United Bank of India (UBI), urging that the restructuring of loans be extended to cold storage units across the state. The petitioners also submitted four restructuring proposals to UBI on 5th November 2019 and 28th November 2019, in accordance with the guidelines issued by the bank.

10. In this backdrop, a meeting was convened by the UBI in its capacity as the convener of the State Level Banking Committee (for short, SLBC) on 7th December 2019. Representatives from the RBI, NABARD, the Government of West Bengal, the Union of India, and members of the Cold Storage Owners Association participated in the meeting. Taking cognizance of the unprecedented challenges faced by the cold storage sector, the Committee acknowledged that this sector had been under stress for the past three years due to adverse market dynamics. Accordingly, it was resolved that UBI would undertake the restructuring of advances in stressed accounts under the provisions of the RBI circular dated 1st January 2019, as applicable to stressed assets, but classified as standard accounts registered under the MSME Act as on 31st December 2018. It was further resolved that the bankers would prioritize and dispose of the restructuring proposals received by them on their merits, strictly in accordance with the directives issued by the RBI.
11. However, despite the petitioners being eligible to avail the benefits of loan restructuring from UBI, and notwithstanding the fact that the bank received the restructuring proposals from the petitioners in November 2019, neither did the bank extend such benefits to the petitioners, nor did it respond to the proposals.
12. In the meantime, normal life across the country was severely disrupted due to the COVID-19 pandemic, and multiple nationwide lockdowns were imposed, bringing business activities of all MSME units, including those of the petitioners, to a complete standstill.
13. Meanwhile, UBI was merged with Punjab National Bank (for short, PNB), followed by the merger of Oriental Bank of Commerce with PNB.

Subsequent to these mergers, the petitioners submitted a representation to the Managing Director and Chief Executive Officer of PNB. In the meantime, PNB sought clarifications regarding the petitioners' restructuring proposals. The petitioners duly addressed all the issues raised by the PNB and responded satisfactorily to all queries put forth by the bank.

14. On March 27, 2020, the RBI issued a notification directing all banks to grant an opportunity to account holders, regardless of their classification, to opt for rescheduling or restructuring of their working capital limits or credit facilities. The circular further stipulated that the implementation of such measures shall not, by itself, lead to a downgrade in the classification of the assets.
15. RBI came up with another circular dated May 22, 2020 whereby moratorium was issued for term-loan instalment. The circular dated May 22, 2020 directed that in respect of all accounts for which lending institution decided to grant moratorium/deferment and which was standard as on 1st March, 2020 and the circular prohibited all the Banks to declare any account as a NPA account for a period covering from 1st March, 2022 – August 30, 2022.
16. Crucially, the petitioners allege that on 22nd June 2020, in brazen violation of the circulars issued by the Reserve Bank of India (RBI), their loan accounts were classified as NPAs by PNB. They further contend that no notice under Section 13(2) of the SARFAESI Act was personally served upon them, despite a demand notice under the said provision being published in a newspaper on 9th February 2021. The petitioners also

allege that their accounts were classified as NPAs without any decision being taken on their pending restructuring proposals.

17. Moreover, subsequent to the publication of the notice dated 9th February 2021, the petitioners were asked to submit a fresh restructuring proposal, without any request for enhancement of the working capital limit. The petitioners allege that such conduct on the part of the bank, in seeking a restructuring proposal after classifying the accounts as NPAs, renders the classification itself arbitrary and unsustainable.
18. However, in compliance with the bank's request, the petitioners submitted a fresh restructuring proposal vide letters dated 1st October 2020, 8th October 2020, and 14th October 2020, without prejudice to their rights and contentions. The petitioners contended that such restructuring was necessary, as the promoter's contribution was to be deposited or otherwise addressed through the financial grant announced by the Union of India. Prior to the submission of the proposal, discussions were held between the petitioners and senior officials of the bank on at least four occasions, following which the restructuring proposal was duly modified.
19. Vide its letter dated 30th January 2021, PNB responded to the restructuring proposal, stating that the tenure proposed by the petitioners ought to have been for 10 years instead of 15 years. Subsequently, by a letter dated 10th February 2021, the petitioners were granted a stringent timeline of three days to submit a revised restructuring proposal, accompanied by a warning that failure to comply within the stipulated period would result in the initiation of recovery proceedings against them.

20. The petitioners contend that, acting with a preconceived mindset and in contravention of the RBI guidelines as well as its own internal norms, the PNB proceeded to classify their accounts as NPAs and denied the restructuring of their loan accounts. Confronted with this situation, the petitioners have been left with no alternative but to approach this Hon'ble Court by preferring the present writ petition.

Stand taken by the UBI.

21. In the affidavit duly affirmed by the Assistant General Manager, Zonal Office, Kolkata, on its behalf, PNB contended that in 2019, the petitioners approached the bank seeking restructuring of the credit facility on account of financial stress arising from various factors. Pursuant to this request, the bank exchanged several correspondences with the petitioners and sought clarifications on the restructuring proposal submitted. However, the proposal was ultimately declined.
22. Thereafter, on 11th May 2020, the petitioners submitted another representation to the Managing Director and Chief Executive Officer of the bank. Pursuant to discussions held between the petitioners and the bank on multiple occasions, revised restructuring proposals were submitted by the petitioners in July 2020 and again in October 2020.
23. The bank contended that the petitioners' credit facility was classified as a Non-Performing Asset (NPA) on 7th July 2020 due to defaults in the repayment of instalments. Consequently, a demand notice dated 28th December 2020 was issued under Section 13(2) of the SARFAESI Act.
24. Vide its communication dated 30th January 2021, followed by a reminder dated 10th February 2021, PNB informed the petitioners of the

conditions that needed to be fulfilled for their restructuring proposals to be considered. In response, petitioner no. 5, on behalf of petitioners no. 1 to 4, submitted a letter dated 20th February 2021, intimating that additional time was required to prepare four revised proposals, including the TEV reports.

25. PNB contended that the petitioners failed to fulfil the requisite conditions to avail the benefits of restructuring their loan accounts. Consequently, their restructuring proposals were rejected, and due to their default in repayment, PNB was justified in initiating action under the SARFAESI Act, 2002, including the issuance of a notice under Section 13(2) of the said Act.

Submissions:

26. Mr. Saha Roy, learned Senior Advocate, advanced arguments on behalf of the petitioners. A central pillar of his submissions was the alleged non-compliance by the respondent bank with various directives and circulars issued by the Reserve Bank of India (RBI). In particular, reliance was placed on the RBI circulars dated January 1, 2019; February 22, 2019; March 27, 2020; and May 22, 2020. Additionally, reference was made to internal circulars of UBI dated January 18, 2019; February 22, 2019; and December 7, 2019. It was specifically contended that, by virtue of the circular issued in February 2019, the General Manager of United Bank of India had directed all its branches to extend the benefits envisaged under the RBI circular dated January 1, 2019 to cold storage units as well. The petitioners alleged that the respondent bank had flagrantly violated these directions.

27. He submitted that although the petitioners' accounts had become stressed, they were classified as standard accounts as on January 1, 2019. Drawing attention to the UBI circular dated January 18, 2019, he contended that the Board of Directors of United Bank of India had approved the RBI guidelines pertaining to the restructuring of MSMED accounts. He further submitted that the Techno-Economic Viability (TEV) studies conducted in respect of the petitioners' cold storage units did not reveal any adverse findings that would render them ineligible for the benefits of loan restructuring. Additionally, he pointed out that the Lead Bank Division of UBI, through its circular dated December 7, 2019, had acknowledged that cold storage units were experiencing financial stress due to prevailing market dynamics.

28. Mr. Saha Roy contended that a meeting of the State Level Bankers' Committee (SLBC) was convened by UBI, wherein it was resolved that MSMEs that were not in default would be eligible for the benefits of loan restructuring. He further submitted that, initially, the West Bengal Cold Storage Association, and subsequently the petitioners individually, had applied for restructuring of their respective loan accounts. However, the respondent bank (now, PNB), declined to extend such benefits to the petitioners, citing various reasons. It was alleged that this denial was arbitrary and discriminatory, especially in light of the fact that similar benefits were granted to other cold storage owners, thereby amounting to hostile discrimination.

29. Mr. Saha Roy submitted that, on January 6, 2020, the petitioners received a communication from the Bank informing them that their request for restructuring of loan accounts had been declined. The

petitioners once again submitted a fresh proposal on 10.05.2020. Subsequently, the petitioners came to learn that their loan accounts had been classified as Non-Performing Assets (NPA) as of June 22, 2020. He further submitted that no notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, SARFAESI Act), had ever been served upon the petitioners. It was only later that the petitioners discovered that a demand notice had been published in a leading newspaper. He contended that, prior to June 22, 2020, the petitioners were not in default.

30. Mr. Saha Roy submitted that, as per the instructions issued by the Reserve Bank of India (RBI) through its press release dated May 22, 2020, all banks were directed not to classify any borrower's account as a Non-Performing Asset (NPA) during the COVID-19 pandemic period. However, in blatant violation of these instructions, the petitioners' loan accounts were classified as NPAs during that period, contrary to the RBI's express directive.

31. Mr. Saha Roy submitted that, even after the publication of the notice styled as a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, officials of the Bank continued to engage in discussions with the petitioners on multiple occasions. Pursuant to instructions received from the Bank during these discussions, the petitioners submitted a fresh proposal for restructuring of their loan accounts on October 1, 2020.

32. Mr. Saha Roy contended that, on January 30, 2021, the petitioners were informed by the Bank that although they had submitted a repayment proposal for a period of 15 years, such proposal was required

to be limited to a 10-year term. Subsequently, by a communication dated February 10, 2021, the petitioners were directed to furnish additional information in support of their proposal within a period of three days. The said communication also contained a default clause stating that failure to provide the requisite information within the stipulated time would result in the Bank initiating necessary action for recovery of its dues.

33. Mr. Saha Roy submitted that it remains unclear how, after the declaration of certain loan accounts as Non-Performing Assets (NPAs), those accounts could subsequently be considered for restructuring. According to him, this inconsistency indicates that the Bank never formally completed the process of classifying the petitioners' loan accounts as NPAs. He further contended that prior to such purported classification, the petitioners had been regularly paying their instalments and other dues. However, disputes began to arise regarding the extension of restructuring benefits to the petitioners in accordance with the RBI circulars as well as the internal circulars issued by United Bank of India (UBI).

34. Mr. Saha Roy alleged that Respondent No. 5, an officer of the bank, intentionally kept his proposals in abeyance due to a personal vendetta. In contrast, similar proposals from other cold storage owners were accepted, some even with enhanced facilities, thereby demonstrating hostile discrimination and a violation of Article 14 of the Constitution. Even after the merger of United Bank of India with Punjab National Bank, his restructuring proposals remained undisposed.

35. Mr. Saha Roy asserted that the Bank in brazen violation of the RBI circulars and even its own circular and in violation of the applicable statutes declined to extend the benefits of restructuring although the petitioner met all essential criteria. He submitted that in light of these circumstances, the classification of the petitioners' loan accounts cannot be legally sustained. He prays for a directive to the Bank to grant the benefits of restructuring of petitioners' loan accounts in terms of the RBI circulars and also in terms of its own internal circulars.
36. To invigorate his submission, he cited the decisions, reported at *(2009)8 SCC 257 (Sardar Associates & Ors. vs. Punjab & Sind Bank & Ors.)*, *(2024) 10 SCC 292(Pro Knits vs. Board of Directors of Canara Bank & Ors.)* & *2023 SCC OnLine Cal 143 (Olive Tree Retail Private Limited & Anr. vs. South Indian Bank Limited & Anr.)*
37. *Per contra*, Mr. Sen, learned Senior Advocate, advanced arguments on behalf of the respondent Bank (Punjab National Bank). He contended that due to existence of efficacious alternative remedy, the action taken by the secured creditor to recovery of outstanding dues under SRFAESI Act, 2002 cannot be challenged in a writ petition. He further submitted that the bank being secured creditor has already initiated insolvency proceeding by filing a Company Insolvency Resolution Petition (CIRP) before the appropriate forum and for this reason also, the writ petition is not maintainable. The sum and substance of his submissions was that the petitioners' proposals for restructuring of their loan accounts were duly considered by the Bank. However, upon evaluation, the Bank did not find sufficient merit in the said proposals. Consequently, by a communication dated January 6, 2020, the petitioners were informed that their

restructuring requests had been declined. A copy of the said communication, as produced by Mr. Sen, is taken on record.

38. Mr. Sen argued that the grant of benefits under a loan restructuring scheme is not a matter of right, but is contingent upon the fulfilment of certain prescribed conditions. He asserted that the petitioners had failed to meet the requisite criteria, and accordingly, their restructuring proposals were not accepted by the Bank. He further submitted that a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, had been duly served upon the petitioners. However, due to the intervention of this Hon'ble Court, no further steps could be taken in pursuance of the said notice.

39. Mr. Sen contended that, even after the petitioners' loan accounts were classified as Non-Performing Assets (NPAs), the Bank afforded them an additional opportunity to submit a fresh proposal for restructuring. Upon receipt of such proposals, the petitioners were directed to furnish certain requisite information. However, they failed to comply with this requirement. Thereafter, a final opportunity was granted, allowing three days for the petitioners to submit the necessary information. It was only upon their failure to respond within this stipulated period that the Bank proceeded to initiate recovery action for the outstanding dues. Mr. Sen accordingly submitted that no case for interference under writ jurisdiction has been made out by the petitioners.

40. To bolster his submission, Mr. Sen, relied on the decisions, reported in 2022 SCC OnLine Cal 833 (*Birla Tyres Limited vs. Reserve Bank of*

India & Ors.), 2025 SCC OnLine SC 23 (Mohammed Enterprises (Tanzania) Ltd. vs. Farooq Ali Khan & Ors.).

Discussion and Conclusion:

41. In the present case, aggrieved by the interlocutory order dated July 8, 2021, passed in this writ petition whereby their prayer for interim relief was declined, the petitioners preferred an intra-court appeal, being MAT 643 of 2021. The said appeal was disposed of by an order dated December 23, 2021, whereby the Bank was restrained from taking any further action against the petitioners under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the 2002 Act").
42. Therefore, it is an admitted position that no notice under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("the 2002 Act") has been issued. The appropriate stage for invoking the remedy under Section 17 of the 2002 Act arises only upon the issuance of a notice under Section 13(4). As previously noted, in the present case, no such notice has been issued, as the Bank was restrained by an order of the Hon'ble Division Bench from taking any further action following the issuance of the notice under Section 13(2) of the 2002 Act. Since the proceedings have not yet reached the stage contemplated under Section 13(4), the present writ petition is maintainable. (See the judgment in *WPA No. 16875 of 2023 – M/s. Olive Tree Retail Private Limited & Anr. vs. South India Bank Limited & Anr.*).

43. Mr. Sen admitted that although a petition for initiation of the Corporate Insolvency Resolution Process (CIRP) has been filed before the National Company Law Tribunal (NCLT), Kolkata Bench-II, the same has not yet been admitted.
44. However, in the celebrated decision of *Celir LLP vs. Sumati Prasad Bafna*, reported in 2024 SCC OnLine SC 3729, the Hon'ble Supreme Court held that piecemeal litigation, where issues are deliberately fragmented across separate proceedings to gain an unfair advantage, constitutes an abuse of the process of law. Parties cannot be permitted to approach different forums to revisit the same matters that were consciously not pursued earlier. In *Vodafone Idea Cellular Ltd. vs. Ajay Kumar Agarwal*, reported in (2022) 6 SCC 496, the Hon'ble Supreme Court reiterated the application of the Doctrine of Election, holding that once a party has elected to pursue a remedy before one forum, it cannot challenge the same cause of action before another forum. Where two remedies are available for the same relief, a party must choose one and cannot avail of both simultaneously.
45. In the present case, it is unfortunate to note that the Bank has chosen to contest the writ petition filed by the petitioners to challenge the classification of their MSME accounts as Non-Performing Assets (NPAs) and the issuance of a notice under Section 13(2) of the 2002 Act, which was published in a newspaper. The Bank also contested the intra-court appeal and suffered an interim order, whereby it was restrained from taking any further action under the 2002 Act.
46. However, under the impression that such restraint would not operate as an impediment to proceeding under the Insolvency and

Bankruptcy Code, 2016 ("the IBC"), the Bank proceeded to file a petition for initiation of the Corporate Insolvency Resolution Process (CIRP) before the NCLT, without awaiting the determination of the issues by this Court. Such conduct appears to be an attempt to render the present proceedings infructuous, despite the fact that the Hon'ble Division Bench has directed this Court to adjudicate the issues raised in the writ petition. This conduct is not expected from a responsible litigant engaged in pending litigation.

47. Undoubtedly, the petitioners' cold storage units were registered as Micro, Small and Medium Enterprises (MSMEs) within the meaning of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as the *MSMED Act*). According to the petitioners, at the instance and insistence of UBI, they proceeded to acquire four cold storage units, namely: (i) Ma Sarada Multipurpose Cold Storage (P) Ltd.; (ii) Ray Changa Agro Food Processing Industry Pvt. Ltd.; (iii) Ma Mangala Gouri Cold Storage (P) Ltd.; and (iv) Nabadinganta Cold Storage (P) Ltd.—all of which had existing loan accounts that had already been classified as Non-Performing Assets (NPAs) by UBI. The petitioners claimed that, as a result of these acquisitions, their total credit exposure increased substantially from Rs. 73 lakhs to Rs. 73 crores. However, despite repeated requests, the working capital facilities sought by the petitioners were not sanctioned by the Bank.

48. In recognition of the widespread financial stress faced by MSME accounts across the country, and with a view to facilitating meaningful restructuring of such accounts, the Reserve Bank of India (RBI), vide its circular dated January 1, 2019, permitted a one-time restructuring of

existing loans extended to MSMEs, without any downgrade in asset classification. This relief, however, was subject to certain conditions, the foremost being that the borrower's account must have been classified as 'standard' as on January 1, 2019. Additionally, it was mandated that Banks and Non-Banking Financial Companies (NBFCs) intending to implement this restructuring scheme were required to formulate and adopt a Board-approved policy on the restructuring of MSME advances within the time frame specified in the said RBI circular. Be it noted here that the circular defines the word 'Satisfactory Performance' which means no payment (interest and/or principal) shall remain overdue for a period of more than 30 days.

49. The UBI circular dated 18th January 2019 indicates that the Board of UBI adopted a policy for the restructuring of MSME loan accounts. Another UBI circular, dated 22nd February 2019, reflects the directions of the Indian Banks' Association that the restructuring scheme formulated by the RBI through its circular dated 1st January 2019 would be applicable to units engaged in agriculture, food processing, and cold storage. As previously noted, the State Level Bankers' Committee (SLBC), in its meeting convened by UBI, resolved that restructuring proposals received from MSMEs for advances on stressed accounts would be disposed of on a priority basis, depending on the merits of each proposal.
50. The petitioner, initially in conjunction with the Cold Storage Association and subsequently in an individual capacity, submitted restructuring proposals in November 2019. Upon receipt of these proposals, the Bank sought certain clarifications from the petitioner. The petitioner, however, claimed to have submitted all requisite clarifications

and supporting documents. During this period, several discussions were held between the petitioner and officials of the Bank. Thereafter, the petitioner received a letter dated 6th January 2020 from the Bank, which indicated that the proposals for restructuring of accounts, including a request for enhancement of credit limits, had been considered. However, the Bank ultimately declined to accept the said proposals.

51. In the meantime, due to the COVID-19 pandemic, the normal lives of citizens across the country were severely disrupted. Taking note of this situation and the resulting impact on businesses, and with a view to ensuring the continuity of viable enterprises, the Reserve Bank of India (RBI), vide its circular dated 27th March 2020, permitted all banks to grant a moratorium on the payment of instalments falling due between 1st March 2020 and 31st May 2020. Additionally, the circular directed that the 90-day NPA norm would continue to apply in respect of accounts that were classified as standard as on 1st March 2020. It further provided that there would be an asset classification standstill for all such accounts during the moratorium or deferment period, i.e., from 1st March 2020 to 31st August 2020.

52. As mentioned earlier, the petitioner submitted a fresh proposal on 11th May 2005. However, from the demand notice published by the Bank in a leading newspaper (Annexure P-6 to the writ petition), it is evident that the petitioner's MAMC accounts were classified as Non-Performing Assets (NPAs). Consequently, the Bank decided to initiate proceedings under the SARFAESI Act and accordingly issued a notice under Section 13(2) of the said Act in respect of the secured assets.

53. The record reveals that, following a series of discussions held between the petitioner and officials of the Bank, the petitioner once again submitted a fresh proposal for restructuring of the loan accounts on 1st October 2020. In a communication dated 30th January 2021, addressed to the petitioner by the Bank, it was conveyed that the proposal for repayment of the Funded Interest Term Loan (FITL), Working Capital Term Loan (WCTL), and other term loans had been submitted for a tenure of 15 years. However, the petitioner was informed that the proposal ought to have been submitted for a tenure of 10 years.
54. On 10th February 2021, the petitioner was given a stringent timeline of three days to furnish certain information, with a default clause stating that failure to submit the requested information within the stipulated period would result in recovery action being initiated by the Bank. By a letter dated 28th February 2021, the petitioner sought an extension of time to submit the required documents. Subsequently, several representations were made by the petitioner. However, despite receipt of these representations, they were not acted upon.
55. Therefore, from the record, it is evident that the petitioners' MAMC accounts were classified as standard as of 1st January 2019 and 1st March 2020. The petitioners' initial proposal for restructuring was declined on 6th January 2020. Following the Bank's instructions, the petitioners submitted fresh proposals on 11th May 2020, which was prior to the classification of their accounts as NPAs. Moreover, even after the accounts were classified as NPAs, the petitioners were requested to submit fresh proposals and furnish the necessary information in connection with their restructuring applications.

56. In the decision of *Pro Knits* (supra), it was held that the directions issued by the Ministry of Finance under the MSMED Act, as well as the RBI circulars, are mandatory in nature. Consequently, if a proposal for restructuring is submitted to a bank in respect of MAMC loan accounts before the borrower's accounts are classified as Non-Performing Assets (NPAs), the bank is obligated to consider such a proposal. Therefore, classifying MAMC accounts as NPAs without considering the restructuring proposal is not legally sustainable.
57. The fresh proposal submitted by the petitioner on 10th May 2020 were neither declined nor disposed of prior to the classification of their MSME accounts as NPAs and before the publication of the demand notice, i.e., the notice under Section 13(2) of the SARFAESI Act, 2002, in the newspaper.
58. The RBI circulars and directions issued to banks operating under its supervision are binding, and such banks are required to follow the instructions and policies formulated by the RBI pursuant to the provisions of Sections 21 and 35A of the Banking Regulation Act, 1949. Therefore, the RBI circular dated 1st January 2019 was binding on UBI, and failure to adhere to such guidelines may compel the bank to comply with the RBI's directives and policies. (See the judgments in *Sardar Associates and Ors.* (supra)). For enforcement of the borrower's rights, a writ in the nature of mandamus may also be issued against the bank, including PNB following the merger.
59. Having adopted a policy for the restructuring of MAMC accounts, United Bank of India (UBI) is bound to adhere to the same. The letter dated 6th January 2020 does not specify any reasons for declining the

petitioner's restructuring proposal or explain why it was considered to lack merit. Furthermore, the Bank failed to consider the fresh proposal submitted by the petitioner on 11th May 2020. As noted earlier, even after the classification of the petitioners' MAMC accounts as NPAs, the Bank instructed the petitioner to submit fresh proposals for restructuring these accounts. Such conduct itself indicates that the Bank did not regard the classification of the petitioners' accounts as NPAs to be final and conclusive. Additionally, even after classification, the Bank asked the petitioner to furnish further information, which further suggests that no final decision had been taken regarding the petitioner's fresh restructuring proposals. The Bank has not been able to produce any document evidencing that it communicated the reasons for initially declining the petitioner's proposal dated 6th January 2020, or for the fresh proposals submitted on 10th May 2020 or 1st October 2020 (if any).

60. Public entities such as banks, which deal with public money, must maintain a careful balance between their commercial interests and their responsibilities to adhere to the principles of natural justice, fairness, established legal principles, and RBI guidelines. Any illegal or arbitrary action motivated by extraneous considerations, even if purportedly in the commercial interest of the bank, is liable to be set aside in law.

61. In a recent decision reported in *2025 SCC Online SE 73 (NBCC India Limited vs. State of West Bengal)*, the Hon'ble Supreme Court emphasized that MSMEs are the backbone of the Indian economy, providing employment to 62% of the country's workforce, contributing 30% to India's GDP, and accounting for approximately 45% of India's total exports. Recognizing the critical importance of supporting MSMEs

whose accounts have become stressed or suffered financial distress due to trade downturns, demonetization, and the COVID-19 pandemic, banks are obligated to consider restructuring proposals in light of the policy adopted by the Ministry of Finance and the RBI. Accordingly, the petitioners' restructuring proposals ought to have been considered with due regard to these policy considerations.

62. The affidavit-in-opposition filed by the Bank, along with the arguments presented on its behalf, indicates that the Bank sought to justify its actions by alleging that the petitioners failed to submit the required clarifications and information within the stipulated time.
63. Declining the petitioners' restructuring proposal through a non-speaking communication dated 6th January 2020, while leaving the subsequent fresh proposals pending without any decision, publishing a demand notice under Section 13(2) of the SARFAESI Act 2002 in a newspaper without even serving a copy to the petitioners, classifying the petitioners' MSME accounts as NPAs, and then instructing them to submit fresh proposals for restructuring despite this classification all coupled with imposing stringent deadlines to furnish information under the threat of recovery action during the pendency of this writ petition demonstrate a blatant disregard for procedural fairness and legal propriety.
64. Moreover, the Bank's decision to proceed with recovery actions and initiate parallel proceedings before another forum, in complete disregard of the direction of the Hon'ble Division Bench and without awaiting this Court's determination, reveals a reckless and opportunistic approach. Such conduct by the Bank falls far short of the standards of good faith and

fairness expected of a public financial institution and amounts to an abuse of process, designed to harass the petitioners and frustrate their legitimate rights.

65. There is no scintilla of doubt regarding binding precedents set in the decisions cited by Mr. Sen. However, those were distinguishable on facts.

Order:

66. Therefore, based on the discussions and reasons set out in the preceding paragraphs, the classification of the petitioners' MSME loan accounts as Non-Performing Assets is hereby quashed. The notice issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, which was published in the newspaper, and, if subsequently served upon the petitioners, is also quashed.

67. The Bank is directed to consider the petitioners' proposal for restructuring their MSME accounts, keeping in view the objectives underlying the RBI circular dated 1st January 2019, the corresponding UBI circulars issued pursuant to the RBI directive, the resolution adopted by the State Level Bankers' Committee (SLBC), and the observations made in this order. The Bank shall undertake this consideration prior to initiating or continuing any recovery proceedings against the petitioners before any forum.

68. The Respondent No. 3 shall appoint either an individual of impeccable integrity and impartiality or a committee comprising such persons to consider the petitioners' proposal for restructuring their

MSME accounts, in accordance with this order. This process must be conducted independently, without being influenced by the Bank's previous decision on the matter. The Respondent No. 3 shall also ensure that Respondent No. 5, against whom the petitioners have raised concerns, does not participate in or influence the decision-making process.

69. With these observations and order, this writ petition and its connected application are, thus, disposed of; however, without any order as to the costs.

(Partha Sarathi Chatterjee, J.)