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14.07.2025
d.p.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 12369 of 2025

Shri Om Prakash Pandey & Anr.
-versus
State Bank of India & Ors.

Mr. Saswat Nayak,
Ms. Reshmi Singhee,
Ms. Mayuri Ghosh,
Ms. M. Chowdhury,
Ms. Priya Malakar.
...For the Petitioners.

Mr. Debasish Saha,
Mr. S. Ghosh,
Mr. A. Roy Sanyal,
Mr. S. Pal.
...For SBI.

1. The petitioners are aggrieved by the order passed by the Fraud Examination Committee by declaring the petitioners' bank account as fraud.

2. The petitioners rely on the decision of the Hon'ble Supreme Court in the matter of State Bank of India & Ors. –vs- Rajesh Agarwal & Ors. reported in (2023) 6 SCC 1 that a personal opportunity of hearing is required to be provided to the petitioners.

3. The entire Forensic Audit Report was also not served upon the petitioners but only relevant extract was forwarded.

4. Learned advocate appearing on behalf of the Bank submits that the petitioners never sought for the entire Forensic Audit Report. Nor was any prayer made by the petitioners seeking opportunity of hearing. The

conduct of the petitioners implies that the petitioners were not prejudiced by the act of the Bank and accordingly, the Bank proceeded in terms of the circular of the RBI and declared the petitioners' bank account as fraud.

5. According to the petitioners an opportunity to examine the entire Forensic Audit Report ought to have been provided otherwise the petitioners will not be in a proper position to defend their case.

6. The Hon'ble Supreme Court has laid down in Rajesh Agarwal (supra) 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 by the Bank/JLF before their account is classified as fraud under the Master Direction on fraud.

7. The Court also held that even though the Master Direction of fraud do not expressly provide an opportunity of hearing to the borrowers before classifying their account as fraud, the provision of *audi alteram partem* has to be read into the same to save the act from the vice of arbitrariness.

8. Admittedly in the instant case opportunity of hearing was not provided to the petitioners. In line with the decision passed by the Hon'ble Supreme Court, the instant writ petition is allowed by setting aside the declaration of the petitioners' bank account as fraud.

9. The petitioners have been provided portions of the Forensic Audit Report. The Bank is directed to forward the entire Forensic Audit Report to the petitioners. If the report is a voluminous one, then the petitioners shall be provided inspection of the same.

10. On perusal of the Forensic Audit Report if the petitioners require the necessity of filing additional reply to the show cause notice, then the Bank shall permit the petitioners to submit the same.

11. An opportunity of hearing shall be provided to the petitioners and thereafter the authority shall pass a reasoned order in the matter.

12. Steps shall be taken by the Bank in the matter at the earliest.

13. The writ petition stands disposed of.

14. Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)