

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

WPA No. 27289 of 2025

Mahua Bhaumik

Versus

Union of India & Ors.

Mr. Kumarjit Banerjee
Ms. Akansha Chowdhury
Mr. Subhamoy Karmakar
Ms. Sayani Barman

.....For the petitioner.

Ms. Amrita Pandey
Mr. Subit Majumdar
Ms. Sayanwita Auddhya
Mr. Dinesh Barman

.....For the U.O.I.

Ms. Suchishmita Ghosh

...For the respondent no. 2.

Ms. Sonia Nandy

...For the respondent no. 3.

Mr. Sayak Ranjan Ganguly

Ms. Srijani Ghosh

Ms. Indrani Majumdar

.....For the respondent nos. 5, 6, 8 & 14.

Ms. Akshita Singh

...For the respondent no. 9.

Ms. Soni Ojha

...For the respondent no. 10.

Ms. Sambrita B. Chatterjee

...For the respondent no. 11.

Mr. Avishek Guha

Mr. Subhajit Das

Ms. Sonal Agarwal

.....For the respondent nos. 12.

Hearing Concluded On : 12.12.2025

Judgment on : 16.12.2025

Krishna Rao, J.:

1. The petitioner has filed the present writ application praying for a direction upon the respondents for consideration of the representations submitted by the petitioner for initiation of revival and rehabilitation process in respect of her loan accounts in accordance with the Reserve Bank of India's Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises Notification dated 17th March, 2016.

- 2.** The petitioner is the sole proprietor of its two concerns, namely, (i) M/s. Reliance Roadlines and (ii) M/s. Reliable Roadlines. Both the firms of the petitioner registered as “Micro Enterprises”. The petitioner has availed various Credit Facilities from the respondent nos. 3 to 14 for the purpose of its business.
- 3.** Mr. Kumarjit Banerjee, Learned Advocate representing the petitioner submits that due to severe political turmoil and civil unrest in early 2024 at Bangladesh had a crippling effect on cross-border trade. Due to which the business of the petitioner suffered a sharp decline in turnover. Due to the political instability resulted in substantial delays in receivables from several export-linked customers, creating a severe cash flow mismatch and the petitioner has suffered severe financial loss, due to which causing temporary irregularities in the payment of Equated Monthly Installments (EMIs) towards the loans availed by the petitioner from the respondents.
- 4.** Mr. Banerjee submits that the respondent no. 2 has issued a Notification dated 29th May, 2015 for the primary purpose of providing timely support to financially viable MSMEs that are facing temporary financial stress. He submits that the Framework mandates that lenders/ borrowers identify such ‘stressed accounts’ at an early stage and formulate a ‘Corrective Action Plan’ (CAP) to revive the MSMEs, even before the accounts are classified as Non-Performing Assets (NPAs). He submits that the Notification dated 29th May, 2015 and subsequent instructions/directions issued by the Central Government

and the Reserve Bank of India (RBI) vide communication dated 17th March, 2016 are in force and are binding to all the financial Institutions.

5. Mr. Banerjee submits that in compliance with the aforesaid notification and instructions, the petitioner approached the respondents requesting restructuring the loan accounts. He submits that inspite of receipt of the request of the petitioner for restructuring the respective loan accounts of the petitioner, the respondent nos. 3 to 14 failed to consider the request of the petitioner. He submits that the respondent nos. 6, 9 and 12 instead of initiating process for revival and rehabilitation as per the notification and instructions, have issued loan recall letters and their recovery agents started resorting the coercive action against the petitioner.
6. Mr. Banerjee submits that the respondent nos. 10 and 11 in violation of the notification and instructions, not only proceeded to recall the loan but also unilaterally initiated arbitration proceedings. The petitioner had issued a letter to the respondent no. 2 on 4th November, 2025 and the copy of the same was also sent to the respondent nos. 3 to 14 requesting the respondent no. 2 intervene in the matter and to ensure the compliance of the Framework. He submits that inspite of several requests made by the petitioner to the respondents, the respondents failed to consider the request of the petitioner. Accordingly, the petitioner has filed the present application.

7. Mr. Banerjee in support of his case, has relied upon the following judgments:

- a. ***M/s. Pro Knits vs. The Board of Directors of Canara Bank and Ors. reported in 2024 SCC OnLine SC 1864,***
- b. ***Shri Shri Swami Samarth Construction and Private Limited vs. the Board of Directors of NKGSB CO-OP. Bank Ltd. and Ors. passed in Writ Petition (Civil) No. 684 of 2025 dated 28th July, 2025,***
- c. ***K.K. Saksena vs. International Commission on Irrigation and Drainage & Ors. reported in (2015) 4 SCC 670,***
- d. ***Federal Bank Limited vs. Sagar Thomas & Ors. reported in (2003) 10 SCC 733.***

8. Ms. Suchishmita Ghosh, Learned Advocate representing the respondent no. 2 submits that on receipt of the application of the petitioner, a reply was sent to the petitioner on 4th November, 2025, requesting the petitioner to lodge the complaint in RBI CMS portal or forward the complaint to Centralized Receipt and Processing Centre (CRPC) of Reserve Bank of India but inspite of the request made by the RBI, the petitioner has not lodged any complaint. She further submits that all the financial institutions are required to follow the notification and the instructions issued by the respondent no. 2.
9. Mr. Sayak Ranjan Ganguly, Learned Advocate appearing for the respondent nos. 5, 6, 8 and 14 submits that the writ petition filed by

the petitioner is not maintainable against the respondent nos. 3 to 14 as the respondent nos. 3 to 14 are the private financial institutions and are not coming under the purview of Article 12 of the Constitution of India. He further submits that all the prayers in the writ petition are against the respondent nos. 3 to 14 but no relief can be granted to the petitioner in the present writ application. In support of his submissions, he has relied upon the judgement in the case of **S Shobha Vs. Muthoot Finance Ltd.** passed in **Special Leave Petition (C) Nos. 2625-2627 of 2025** dated **24th January, 2025**.

10. Mr. Ganguly submits that it was the duty of the petitioner to bring the notice of the respondent nos. 3 to 14 by producing authenticated and verifiable documents and materials to show that the petitioner is entitled to get benefits of the notification and instructions but the petitioner failed to do so. He submits that the judgments relied by the petitioner are not applicable in the present case.
11. Mr. Avishek Guha, Learned Advocate representing the respondent no.12 submits that the petitioner has not made any request to the respondent no.12 and thus the petitioner cannot claim any relief against the respondent no.12 in the present writ application.
12. Mr. Guha relied upon the Judgement in the case of **Pro Knits vs. Board of Directors of Canara Bank & Ors.** reported in **(2024) 10 SCC 292** and submits that in the said case also the Hon'ble Supreme Court has held that it is also an incumbent on the part of MSMEs to be

vigilant to follow the process laid down in the Framework and to bring to the notice of the bank.

13. Learned Counsels appearing for the respondent nos. 10 and 11 submits that the respondents have already initiated arbitration proceeding in terms of the Arbitration Clause of the Agreement, thus the writ petition is not maintainable.

14. Heard the Learned Counsels for the respective parties, perused the materials on record and the judgments relied by the parties. The petitioner has availed the following Credit Facilities for the respondent nos. 3 to 14:

S. No.	Respondent Institution	Loan Account No.	Sanctioned Amount (₹)
1	<i>Poonawalla Fincorp Limited</i>	APPL00539306	75,66,202/-
2	<i>Poonawalla Fincorp Limited</i>	APPL00543686	8,40,000/-
3	<i>ECL Finance Limited</i>	BL2404161828075	16,36,089/-
4	<i>ECL Finance Limited</i>	SL2402232032616	79,77,911/-
5	<i>ICICI Bank Limited</i>	LVCAL00049100113	33,61,156/-
6	<i>ICICI Bank Limited</i>	LVCAL00049100078	33,61,156/-
7	<i>ICICI Bank Limited</i>	LVCAL00049100221	4,50,000/-
8	<i>ICICI Bank Limited</i>	LVCAL00049100146	4,50,000/-
9	<i>ICICI Bank Limited</i>	UVCAL00048872879	16,67,000/-
10	<i>ICICI Bank Limited</i>	UVCAL00048872938	16,67,000/-

11	<i>Axis Bank Limited</i>	UCR031909578146	53,50,854/-
12	<i>Kisetsu Saison Finance (India) Private Limited</i>	8773640	24,48,000/-
13	<i>HDB Financial Services Limited</i>	54712881	12,12,697/-
14	<i>HDB Financial Services Limited</i>	54981795	12,12,697/-
15	<i>Fullerton India Credit Co. Ltd.</i>	256902411504894	15,67,723/-
16	<i>UGRO Capital Limited</i>	UGKOLSU0000063692	20,36,500/-
17	<i>L&T Finance Holdings Ltd.</i>	BL240202040100471	25,00,000/-
18	<i>Bajaj Finance Ltd.</i>	410ZBTKC883473	33,48,113/-
19	<i>Sundaram Home Finance Limited</i>	KOL20250153	2,26,00,000/-
20	<i>Sundaram Home Finance Limited</i>	KOL20250150	2,14,00,000/-
21	<i>Tata Capital Limited</i>	TCFBL0542000013194233	35,37,724/-

15. It is not in dispute that the petitioner is Micro, Small and Medium Enterprises (MSMEs). Clause 2.3 of the Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises, reads as follows:

“2.3. Identification by the Borrower Enterprise - Any MSME borrower may voluntarily initiate proceedings under this Framework, if the enterprise reasonably apprehends failure of its business or its inability or likely inability to pay debts or there is erosion in the net worth due to accumulated losses to the extent of 50% of its net worth during the previous accounting year, by

*making an application to the branch or directly to the Committee as referred in para 3.3, wherever applicable. When such a request is received by lender, the account with aggregate loan limits above Rs.10 lakh should be referred to the Committee. The Committee should convene its meeting at the earliest **but not later than five working days** from the receipt of the application, to examine the account for a suitable CAP. The accounts with aggregate loan limit up to Rs.10 lakh may be dealt with by the branch manager/ designated official for a suitable CAP.”*

- 16.** The Hon’ble Supreme Court in the case of ***Pro Knits (supra)*** held that the instructions for the Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises vide Notification dated 29th May, 2015 as revised by the R.B.I. Notification dated 17th March, 2016 having statutory force, are binding on all scheduled commercial banks, licensed to operate in India by the Reserve Bank of India as stated in the directions.

- 17.** In the case of ***Pro Knits (supra)***, the Hon’ble Supreme Court held that:

“13. While advising all the scheduled commercial banks to follow the guidelines/instructions pertaining to MSMEs, it was directed in Direction 4.8 as under:

“4.8. Framework for Revival and Rehabilitation of MSMEs.—The Ministry of Micro, Small and Medium Enterprises, Government of India, vide their Gazette Notification dated 29-5-2015 had notified a “Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises” to provide a simpler and faster mechanism to address the stress in the accounts of MSMEs and to facilitate the promotion and development of MSMEs. The Reserve Bank was advised to issue necessary instructions to

banks for effective implementation and monitoring of the said Framework. After carrying out certain changes in the captioned Framework in consultation with the Government of India, Ministry of MSME so as to make it compatible with the existing regulatory guidelines on “Income Recognition, Asset Classification and provisioning pertaining to Advances” issued to banks by RBI, the guidelines on the captioned Framework along with operating instructions were issued to banks on 17-3-2016. The revival and rehabilitation of MSME units having loan limits up to Rs 25 crores would be undertaken under this Framework. Banks were required to put in place their own Board approved policy to operationalise the Framework not later than 30-6-2016. The revised Framework supersedes our earlier Guidelines on Rehabilitation of Sick Micro and Small Enterprises issued vide our circular RPCD. CO. MSME & NFS.BC.40/06.02.31/2012-2013 dated 1-11-2012, except those relating to Reliefs and Concessions for Rehabilitation of Potentially Viable Units and One Time Settlement, mentioned in the said circular.

The salient features of the Framework are as under:

- (i) Before a loan account of an MSME turns into a Non-Performing Asset (NPA), banks or creditors should identify incipient stress in the account by creating three sub-categories under the Special Mention Account (SMA) category as given in the Framework.*
- (ii) Any MSME borrower may also voluntarily initiate proceedings under this Framework.*
- (iii) Committee approach to be adopted for deciding corrective action plan.*
- (iv) Time lines have been fixed for taking various decisions under the Framework.”*

14. *In view of the above, it is absolutely clear that the Instructions for the Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises as notified by the Central Government vide the Notification dated 29-5-2015 in exercise of the powers conferred under Section 9 of the MSMED Act, as revised by the RBI Notification dated 17-3-2016, and the Master Directions i.e. the Reserve Bank of India [Lending to Micro, Small and Medium Enterprises (MSEM) Sector] Directions, 2016, issued by the Reserve Bank of India in exercise of the powers conferred by Sections 21 and 35-A of the Banking Regulation Act, having statutory force, are binding on all scheduled commercial banks, licensed to operate in India by the Reserve Bank of India, as stated in the said Directions. It cannot be gainsaid that the Banking Regulation Act, 1949 basically seeks to regulate banking business and mandates a statutory comprehensive and formal structure of banking regulation and supervision in India.”*

- 18.** The business of the petitioner suffered severe financial loss due to political turmoil and civil unrest in Bangladesh in the year 2024 for which there was irregularities in the payment of Equated Monthly Instalments (EMIs) towards the repayment of the above mentioned loan to the respondents. The petitioner has made request to the respondents for initiation of proceedings for Rehabilitation and Revival under the Reserve Bank of India Framework for MSMEs. The respondents inspite of receipt of the request of the petitioner have neither sent any reply nor have started the any proceeding under the Frameworks. Learned Counsel for the respondent no.12 had submitted that the petitioner has not made any representation to the respondent no.12 but this Court finds that the petitioner has submitted request to the respondent no.12 on 14th October, 2025, along with all documents which is appearing at

page 992 to 1019 of the writ petition. The respondent nos. 6, 9 and 12 have issued letters to recall of loans failing which they will declare the loan account of your petitioner as Non-Performing Assets (NPAs). The respondent nos. 10 and 11 without considering the request of the petitioner has initiated Arbitration Proceeding against the petitioner.

- 19.** The respondent nos. 5, 6, 8 and 14 have raised objection that the writ petition is not maintainable and have relied upon the judgement in the case of **Muthoot Finance Ltd. (supra)** wherein the Hon'ble Supreme Court held that :

“8. A body, public or private, should not be categorized as “amenable” or “not amenable” to writ jurisdiction. The most important and vital consideration should be the “function” test as regards the maintainability of a writ application. If a public duty or public function is involved, anybody, public or private, concerned or connection with that duty or function, and limited to that, would be subject to judicial scrutiny under the extraordinary writ jurisdiction of Article 226 of the Constitution of India.

9. We may sum up thus:

(1) For issuing writ against a legal entity, it would have to be an instrumentality or agency of a State or should have been entrusted with such functions as are Governmental or closely associated therewith by being of public importance or being fundamental to the life of the people and hence Governmental.

(2) A writ petition under Article 226 of the Constitution of India may be maintainable against (i) the State Government; (ii) Authority; (iii) a statutory body; (iv) an instrumentality or agency of the State; (v) a company which is financed and owned by the State; (vi) a private body run substantially on State funding; (vii) a private body discharging public duty or positive obligation of

public nature; and (viii) a person or a body under liability to discharge any function under any Statute, to compel it to perform such a statutory function.

(3) Although a non-banking finance company like the Muthoot Finance Ltd. with which we are concerned is duty bound to follow and abide by the guidelines provided by the Reserve Bank of India for smooth conduct of its affairs in carrying on its business, yet those are of regulatory measures to keep a check and provide guideline and not a participatory dominance or control over the affairs of the company.

(4) A private company carrying on banking business as a Scheduled bank cannot be termed as a company carrying on any public function or public duty.

(5) Normally, mandamus is issued to a public body or authority to compel it to perform some public duty cast upon it by some statute or statutory rule. In exceptional cases a writ of mandamus or a writ in the nature of mandamus may issue to a private body, but only where a public duty is cast upon such private body by a statute or statutory rule and only to compel such body to perform its public duty.

(6) Merely because a statute or a rule having the force of a statute requires a company or some other body to do a particular thing, it does not possess the attribute of a statutory body.

(7) If a private body is discharging a public function and the denial of any rights is in connection with the public duty imposed on such body, the public law remedy can be enforced. The duty cast on the public body may be either statutory or otherwise and the source of such power is immaterial but, nevertheless, there must be the public law element in such action.

(8) According to Halsbury's Laws of England, 3rd Ed. Vol.30, p.682, "a public authority is a body not necessarily a county council, municipal corporation or other local authority which has public statutory duties to perform, and which perform the duties and carries out its transactions for the benefit of the public and not for private profit". There cannot be any general definition of

public authority or public action. The facts of each case decide the point.”

- 20.** In the case of ***Federal Bank Ltd. (supra)***, the Hon’ble Supreme Court held that:

“27. Such private companies would normally not be amenable to the writ jurisdiction under Article 226 of the Constitution. But in certain circumstances a writ may issue to such private bodies or persons as there may be statutes which need to be complied with by all concerned including the private companies. For example, there are certain legislations like the Industrial Disputes Act, the Minimum Wages Act, the Factories Act or for maintaining proper environment, say the Air (Prevention and Control of Pollution) Act, 1981 or the Water (Prevention and Control of Pollution) Act, 1974 etc. or statutes of the like nature which fasten certain duties and responsibilities statutorily upon such private bodies which they are bound to comply with. If they violate such a statutory provision a writ would certainly be issued for compliance with those provisions. For instance, if a private employer dispenses with the service of its employee in violation of the provisions contained under the Industrial Disputes Act, in innumerable cases the High Court interfered and has issued the writ to the private bodies and the companies in that regard. But the difficulty in issuing a writ may arise where there may not be any non-compliance with or violation of any statutory provision by the private body. In that event a writ may not be issued at all. Other remedies, as may be available, may have to be resorted to.

33. For the discussion held above, in our view, a private company carrying on banking business as a scheduled bank, cannot be termed as an institution or a company carrying on any statutory or public duty. A private body or a person may be amenable to writ jurisdiction only where it may become necessary to compel such body or association to enforce any statutory obligations or such obligations of public nature casting positive obligation upon it. We don't find such conditions are

fulfilled in respect of a private company carrying on a commercial activity of banking. Merely regulatory provisions to ensure such activity carried on by private bodies work within a discipline, do not confer any such status upon the company nor put any such obligation upon it which may be enforced through issue of a writ under Article 226 of the Constitution. Present is a case of disciplinary action being taken against its employee by the appellant Bank. The respondent's service with the Bank stands terminated. The action of the Bank was challenged by the respondent by filing a writ petition under Article 226 of the Constitution of India. The respondent is not trying to enforce any statutory duty on the part of the Bank. That being the position, the appeal deserves to be allowed."

- 21.** In the present case, the grievance of the petitioner for initiation of proceeding for Rehabilitation and Revival under the Reserve Bank of India Framework as the petitioner is MSMEs. The Instructions/ Directions for the Framework for Revival and Rehabilitation of MSMEs notified by the Central Government dated 29th May, 2015 and the revised Notification dated 17th March, 2016 having statutory force and binding to all Commercial Banks, licensed to operate in India by the Reserve Bank of India, as stated in the said Directions. The respondent nos. 3 to 14 being the financial institutions violates the said statutory provisions by not considering the request of the petitioner for initiation of proceeding for Rehabilitation and Revival under the Framework of the Reserve Bank of India, thus the writ petition is maintainable.
- 22.** In such view of the matter, the respondents are directed to consider the representations of the petitioner for initiation of Revival and Rehabilitation process with respect of the loan accounts of the

petitioner in accordance with the Reserve Bank of India's Framework for Revival and Rehabilitation of MSMEs Notification dated 17th March, 2016 and to take appropriate decision in accordance with law.

23. Till the final decision is taken, the respondents nos. 3 to 14 are restricted from giving any effect or further effect to the letters dated 20th November, 2025; 10th October, 2025; 19th September, 2025; 11th November, 2025 and 14th October, 2025, issued by the respondent nos. 6, 9 to 12. This Court further restrain the respondent nos. 3 to 14 from classifying the loan accounts as mentioned in paragraphs 14 above as Non-Performing Assets (NPAs) till final decision is taken under the Reserve Bank of India's Framework for Revival and Rehabilitation of MSMEs Notification dated 17th March, 2016.

24. WPA No. 27289 of 2025 is allowed.

Parties shall be entitled to act on the basis of a server copy of the Judgment and Order placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)