

OD 4

WPO/511/2024

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

PRAKASH CHANDRA AGARWAL
VS
UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 7th November, 2025.

Appearance:

Ms. Noelle Banerjee, Adv.

Mr. Dipanjan Dey, Adv.

Ms. Bidisha Ghoshal, Adv.

...for the petitioner

Mr. Mukul Lahiri, Sr. Adv.

Mr. A. Pramanick, Adv.

Ms. Bhagyasree Dey, Adv.

...for the respondent nos.5 and 6

Ms. Anamika Pandey, Adv.

Mr.P. R. Chakraborty, Adv.

...for the UOI

The Court: The present writ petition challenges a Look Out Circular issued at the behest of the State Bank of India by the Bureau of Emigration against the petitioner.

Learned counsel for the petitioner submits that the petitioner is a non-executive/additional director of a company, against which certain allegations of fraud under the governing Reserve Bank of India's Circulars were levelled.

It is contended by learned counsel that other similarly placed persons, being directors of the self-same company, also suffered such Look Out Circulars

which were set aside by this Court by different orders. Learned counsel places reliance on some of the orders annexed to the present writ petition in that regard.

Learned senior counsel appearing for the State Bank of India contends that the impugned Look Out Circular (LOC) was issued in view of serious allegations of fraud having been made against the company in question. It is submitted that the petitioner, as a director, cannot avoid liability in respect thereof.

Learned counsel for the Union of India submits that an investigation by the CBI is going on against the petitioner in respect of the alleged fraud. As such, it is submitted that in the event the LOC is stayed or quashed, the economic interest of the country may suffer.

Learned senior counsel appearing on behalf of the State Bank of India, on query of Court, hands up to the Court a Division Bench Judgment of the Bombay High Court in the matter of *Viraj Chetan Shah vs. Union of India Through the Ministry of Home Affairs and Another*, reported at 2024 SCC Online Bom 1195 where the relevant circulars issued by the Union of India with regard to issuance of similar LOCs were quashed.

However, learned counsel for the Union of India hands over a copy of an order dated August 12, 2024 passed by the Hon'ble Supreme Court in the matter of *Union of India and Others vs. Viraj Chetan Shah and Others*, reported at 2024 SCC Online SC 2136, where the Hon'ble Supreme Court, it is submitted, stayed the Division Bench order of the Bombay High Court in effect.

Learned counsel for the petitioner, in reply, submits that the order dated August 12, 2024 does not tantamount to setting aside or taking away the effect of the Division Bench judgment of the Bombay High Court. That apart, since LOCs

in respect of other similarly placed persons have already been quashed by this Court, the petitioner ought to be given such relief on the ground of parity as well.

Upon a perusal of the previous orders passed by this Court with regard to the self-same LOC issued by the State Bank of India, in particular the order dated March 14, 2024 passed in WPA 2002 of 2024, it is evident that the relevant Government Memorandum and Circulars relating to issuance of LOCs as well as the particular request of the State Bank of India, which was the genesis of the present impugned LOC, were considered at length by this Court and connected LOC was set aside in respect of a different director of the same company.

That apart, the mere pendency of the investigation by any investigating agency does not tantamount to a conviction or the pendency of a criminal matter against the petitioner. An investigation is only a prelude to filing of a charge-sheet. Only if the investigation culminates in a charge-sheet and a criminal case is started, the ground in that regard in the Government Circular in question are met.

In the present case, a mere perception of the bank that the petitioner and/or the company of which the petitioner was a non-executive director is guilty of fraud does not allow the bank to use the power to request for a Look Out Circular as a tool to harass or coax the petitioner into being subjected to the demands of the bank, which are merely monetary claims at this stage.

In so far as the criminal investigation is concerned, nothing in either the LOC or the order which is being passed now in this matter can prevent any investigating agency, if otherwise empowered in law, to carry out the investigations on allegations made against the petitioner.

However, the request made by the bank, which was discussed in the order dated March 14, 2024 passed in WPA 2002 of 2024, does not come within the ambit of the Government Circulars justifying the issuance of a LOC.

That apart, the petitioner is entitled to the reliefs sought for on the ground of parity as well, since LOCs issued in respect of other directors of the self-same company on the self-same allegations and requests of the bank have already been set aside by this Court and there is no different circumstances in the case of the petitioner which is convincing enough to persuade the Court to deviate from its earlier stand.

In so far as the Bombay High Court Division Bench Judgment is concerned, the same quashes the Government Circulars in their entirety. Without going into the question as to whether the order dated August 12, 2024 passed in Special Leave to Appeal (C) Nos.17194-17230/2024 tantamounts to stay, even construing the Circulars as they stand, the LOC issued on the request of the bank against the petitioner does not stand this scrutiny of law.

At this juncture, learned counsel for the Union of India insists that the CBI has also issued a request for LOC against the petitioner. However, even upon query of Court, learned Counsel for the Union of India fails to produce before this Court as to the outcome of such request or any LOC issued thereon and/or enlighten the Court as to whether such LOC still subsists or has been quashed. In any event, the subject matter of the present writ petition is a different LOC than that issued at the behest of the CBI and even if such an LOC has been issued, it defies logic as to why the same has not yet reached its logical culmination. Be that as it may, the issues of a different LOC on a different

request by a different agency/entity cannot be a germane consideration for disposing of the present writ petition.

In view of the above, WPO 511 of 2024 is allowed on contest, thereby setting aside the LOC issued against the petitioner on the request of the State Bank of India which has been impugned herein.

There will be no order as to costs.

Urgent certified website copies of this order, if applied for, be made available to the parties, subject to compliance with the requisite formalities.

It is made clear that since affidavits have not been invited, it is deemed that none of the allegations made in the writ petitioner are admitted by any of the respondents.

It is further clarified that nothing in this order per se shall prevent any investigating agency from carrying out any investigation on any allegation against the petitioner, if such investigating agency is otherwise empowered in law to do so and has not been interdicted by any order of Court restraining it from doing so.

(SABYASACHI BHATTACHARYYA, J.)