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WPO/1173/2024

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

TARUN CHATURVEDI & ORS.

-Versus-

RESERVE BANK OF INDIA AND ANR.

BEFORE
The Hon'ble Justice AMRITA SINHA
Date: 2nd January, 2025

APPEARANCE:
Mr. Swatarup Banerjee, Adv.
Mr. Nirmalya Dasgupta, Adv.
Mr. Sariful Haque, Adv.
Mr. Rajib Mullick, Adv.
Ms. S. Jha, Adv.
...for the petitioner.

Ms. Suchismita Chatterjee Ghosh, Adv.
Mr. Malay Kumar Seal, Adv.
...for the respondent no.1.

Mr. Ajay Gaggar, Adv.
Mr. Mttiyo Mallick, Adv.
Mr. Sayan Banerjee, Adv.
..for the respondent no.2.

1. The petitioner no.1 is the Managing Director of the petitioner no.2. His name has been reflected in the Central Fraud Registry (CFR) reported by the State Bank of India in January, 2021 and in December, 2022. In view of such mentioning of the name of the petitioner no.1 in the CFR, the

petitioners are not in a position to generate funds for making payment in terms of the Binding Resolution Plan approved by the National Company Law Tribunal (NCLT).

2. In the instant writ petition the petitioners allege that no prior opportunity to show cause was given to the petitioner no.1 prior to incorporating his name in the CFR; that the proceeding against the petitioner no.1 could not have been initiated at all as he was not holding the position of the Managing Director on the day when such reporting was made; and, thirdly that the proceedings under the Insolvency and Bankruptcy Code, 2016 could not have continued any further after the Binding Resolution Plan was approved by the Tribunal.

3. I have heard the submission made on behalf of the Reserve Bank of India and State Bank of India. It has been fairly admitted that the show cause notice which was to be issued in terms of the Master Directions on Fraud Risk Management in Commercial Banks (including Regional Rural Banks) and All India Financial Institutions published by the Reserve Bank of India on 15th July, 2024 has not been complied with.

4. The Master Directions clearly mention about issuance of a detailed show cause notice to the persons, entities and its Promoters/Whole-Time and Executive Directors against whom allegation of fraud is being examined. A reasonable time of not less than twenty one days is to be provided to the said person on whom the show cause notice is to be served to respond to the same. The aforesaid provision was incorporated by the Reserve Bank of India in its Master Directions in compliance of the direction passed by the Hon'ble Supreme Court in Civil Appeal No.7300 of 2022, in the matter of *State Bank of India & Ors. Vs. Rajesh Agarwal & Ors.*

5. Learned counsel for the State Bank of India points out that the show cause notice has not been issued because a review petition is pending consideration before the Supreme Court of India.

6. The fact of pendency of a review petition will certainly not permit the bank to act contrary to a mandatory direction passed by the Hon'ble Supreme Court. Till the prayer made in the review petition is allowed, the judgment of the Supreme Court remains binding and the parties are duty bound to act in accordance with the same.

7. Without entering into the other points that have been raised by the petitioners in the instant writ petition, as it appears that the bank has acted contrary to the Master Directions issued by the Reserve Bank of India, the instant writ petition is disposed of by directing the State Bank of India to take steps strictly in terms of the Master Directions published by the Reserve Bank of India and provide an opportunity of hearing to the petitioners to defend their case. The bank shall act strictly in terms of the direction passed by the Supreme Court followed by the Master Directions of the Reserve Bank of India.

8. Till such time a decision is taken by the bank, the reporting of CFR against the petitioner no.1 shall not be given any further effect to.

9. WPO/1173/2024 stands disposed of.

10. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

A/s.