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W.P.No.39898 of 2015



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.39898 of 2015

R.Priyadharsini

... Petitioner

Vs.

1. The Chairman & Managing Director,
IDBI Bank Limited, IDBI Tower, WTC Complex,
Cuffe Parade, Mumbai – 400 005.
2. The General Manager-HR,
IDBI Bank Limited, IDBI Tower, WTC Complex,
Cuffe Parade, Mumbai – 400 005.
3. The Deputy General Manager-HR,
IDBI Bank Limited, IDBI Tower, WTC Complex,
Cuffe Parade, Mumbai – 400 005.
4. The Zonal Manager, Zonal Office,
IDBI Bank Limited, 115, Anna Salai,
Saidapet, Chennai – 600 015.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the third Respondent in HRD No.8578/Rec.A-CWE-II-RA dated 27.01.2014 and the records of the 2nd Respondent in HRD No. 8466/Rec.A-CWE-II-RA dated 31.07.2015 and quash the same and consequently direct the Respondent to declare that the Petitioner is medically fit based on the report dated 31.10.2013 issued by Dr.Anjali Sathya, specialist endocrinologist and appoint the petitioner



to the post of Assistant Manager-Grade A in Industrial Development Bank of India

For Petitioner : M/s.C.Uma

For Respondents : Ms.Vinithra Srinivasan
for M/s.N.V.S.Associates

ORDER

This writ petition has been filed questioning the action of the respondent Bank and the prayer in the main writ petition reads as under:-

“Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the third Respondent in HRD No.8578/Rec.A-CWE-II-RA dated 27.01.2014 and the records of the 2nd Respondent in HRD No. 8466/Rec.A-CWE-II-RA dated 31.07.2015 and quash the same and consequently direct the Respondent to declare that the Petitioner is medically fit based on the report dated 31.10.2013 issued by Dr.Anjali Sathya, specialist endocrinologist and appoint the petitioner to the post of Assistant Manager-Grade A in Industrial Development Bank of India”

2. When the matter was taken up for consideration on an earlier occasion, it was brought to the notice of this court that the status of the respondent Bank has been changed as a private sector bank with effect from 14.03.2019 and therefore, the maintainability of the writ petition is questioned by the learned



counsel appearing for the respondents. In view of the same, the matter was adjourned from time to time for answering the same.

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3. Today, when the matter is taken up again for consideration, M/s.C.Uma, learned counsel appearing for the petitioner submitted that the petitioner was established under the enactment viz., Industrial Development Bank of India Act, 1964 read with the Industrial Development Bank (Transfer of Undertaking and Repeal) Act, 2003, and contended that, though the status of the respondent Bank is changed from banking undertaking to that of a company under the Companies Act, 1956, the same is owned and run by the State Authorities and therefore, the writ petition is maintainable.

4. However, it is brought to the notice of this court by Ms.Vinithra Srinivasan, learned counsel appearing for the respondents, that the status of the respondent Bank has been changed to a purely private sector bank with effect from 14.03.2019. In view of the same and considering the decision of the Hon'ble Apex Court in the case of ***"Federal Bank Ltd., -vs- Sagar Thomas and others"*** reported in (2003) 10 SCC 733, wherein the status of the private



bank viz-a-viz jurisdiction of this court under Article 226 of Constitution of India came up for consideration. In the said decision, the Hon'ble Apex Court held as under:-

“18. From the decisions referred to above, the position that emerges is that a writ petition under Article 226 of the Constitution of India may be maintainable against (i) the State (Government); (ii) an 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.”

The respondent Bank is not the one falling under any of the categories mentioned above and there is no allegation breach of any statutory function in the present writ petition.

5. Similarly in the case of ***“R.S.Madireddy and others -vs- Union of India (UOI) and others”*** reported in (2024) SCC OnLine SC 965, the Hon'ble Apex Court considered the aspect as to the maintainability of the writ petition against the AIR India Limited and framed a specific question in respect of the



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same, which reads as under:-

“22. ...

(i) ...

(ii) *Whether the appellants herein could have been non-suited on account of the fact that during pendency of their writ petitions, the nature of the employer changed from a Government entity to a private entity?*”

6. The aforesaid question was answered by the Hon'ble Apex Court at Paragraph No.38 of the said decision, which reads as under:-

“38. The question of issuing a writ would only arise when the writ petition is being decided. Thus, the issue about exercise of extra ordinary writ jurisdiction under Article 226 of the Constitution of India would arise only on the date when the writ petitions were taken up for consideration and decision. The respondent No. 3(AIL)- employer was a government entity on the date of filing of the writ petitions, which came to be decided after a significant delay by which time, the company had been disinvested and taken over by a private player. Since, respondent No. 3 employer had been disinvested and had assumed the character of a private entity not performing any public function, the High Court could not have exercised the extra ordinary writ jurisdiction to issue a writ to such private entity. The learned Division Bench has taken care to protect the rights of the appellants to seek remedy and thus, it cannot be said that the appellants have been non-suited in the case. It is only that the appellants would have to approach another forum for seeking their remedy. Thus, the question No. 2 is



decided against the appellants.”

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7. In the light of the above, the status of the respondent Bank is to be considered as on the date of consideration of the writ petition. Admittedly, as on the date, the status of the respondent Bank is purely private sector bank. In view of the same, no mandamus under Article 226 of the Constitution of India can be issued against the respondent Bank. Therefore, this court is of the considered view that the writ petition is not maintainable against the respondent Bank.

8. In view of the same, the writ petition is dismissed. However, liberty is granted to the petitioner to take appropriate steps basing up on the very same cause of action, as is agitated in the present writ petition by initiating appropriate proceedings in accordance with law. No costs. Connected miscellaneous petitions, if any, shall stand closed.

20.01.2025

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Chairman & Managing Director,



IDBI Bank Limited, IDBI Tower, WTC Complex,
Cuffe Parade, Mumbai – 400 005.

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MUMMINENI SUDHEER KUMAR, J.

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