In the High Court of Judicature at Madras

Reserved on : **19.8.2025**	Delivered on: **21.8.2025**

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.15447 of 2022
& WMP.Nos.14595 and 17272 of 2022

Marco Licata ...Petitioner

Vs

1.Union of India, through the
Ministry of Finance (Department
of Financial Services),
III Floor, Jeevan Deep Building,
Sansad Marg, New Delhi-110001.

2.The Reserve Bank of India,
Rep.by General Manager
(In-charge), Department of
Banking Supervision,
Fort Glacis, 16, Rajaji Road,
Fort St.George, Chennai-1.

3.The State Bank of India, rep.
By General Manager (NRI
Division), Rajaji Road, Mannadi,
Chennai Port Trust, Chennai-1.

4.The State Bank of India, rep.by
Chief Manager (NRI Cell), 15,
Rue Suffren, Pondicherry.
605001. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned letter dated 05.1.2019 bearing No. AGM/16 issued by the 4th respondent, quash the same and direct the 4th respondent herein to make over to the petitioner all the funds lying to the credit of late Sri Sushil Mazumdar (alias) Swami Satyananda at the 4th respondent bank.

For Petitioner	:	Mr.Anirudh Krishnan Mr.Adarsh Subramanian & Mr.Abhishek.R for M/s.Sarvabhauman Associates
For R1	:	Mr.A.R.Sakthivel, SPC
For R2	:	Mr.T.Poornam
For R3 & R4	:	Mr.B.Raghavalu Naidu

ORDER

The scope of the above writ petition and the stand taken by respondents 3 and 4 were captured by this Court in the earlier order passed on 15.7.2025 and it is extracted as hereunder :

> *"This writ petition has been filed challenging the impugned communication dated 05.01.2019 issued by the fourth respondent and for a direction*

to the fourth respondent to make over to the petitioner all the funds that are lying to the credit of late Sri Sushil Mazumdar @ Swami Satyananda at the fourth respondent bank.

2. The case of the petitioner is that Sri Sushil Mazumdar @ Swami Satyananda was a spiritual master, who dedicated his life to spiritual teaching and fostering inter-religious dialogue between the East and West. In the year 1976, he found the Sadhana Ashram, which is an international centre for spiritual and cultural research. This Sadhana Ashram was established in Italy. The petitioner, who is an Italian national, was the President of Sadhana Ashram from 03.09.2005 to 03.09.2010 and he continues as a member of the Executive Committee of the Sadhana Ashram.

3. The above said Sri Sushil Mazumdar @ Swami Satyananda held large investments with the State Bank of India viz., fourth respondent. Approximately, Rs.4,75,12,600/- was lying in the bank account. The petitioner was named as a nominee for all these investments with the fourth respondent. The relevant formats as required under the Banking Regulation Act and the rules thereunder was also submitted by the Sri Sushil Mazumdar @ Swami Satyananda in the year 2006 to the fourth respondent bank.

4. The above said Sri Sushil Mazumdar @ Swami Satyananda passed away in Tibet on

18.09.2007. Thereafter, the petitioner wrote a letter to the fourth respondent requesting them to transfer the amount in accordance with the wishes of Sri Sushil Mazumdar @ Swami Satyananda in the petitioner's capacity as nominee.

5. The petitioner received a communication dated 25.04.2008 from the fourth respondent informing that all the papers have been forwarded to the Controlling Officer. Certain clarification was also sought for. The communication was going back and forth between the petitioner and the fourth respondent bank. Whenever any clarification is sought for, it was clarified by the petitioner and the petitioner was also directed to open a NRO account and the petitioner also complied with the said demand. Ultimately, the fourth respondent did not come up with any speedy solution and hence, the petitioner approached the banking ombudsman with a complaint. On receipt of the same, the impugned communication dated 05.01.2019 came to be issued to the petitioner stating that the nomination has not been properly executed and various reasons were given and the petitioner was advised to approach the competent Court.

6. The respondents 3 and 4 have filed counter affidavit. The relevant portions in the affidavit are extracted hereunder:

'8. I state that the petitioner preferred a complaint before the Banking Ombudsman,

Reserve Bank of India, in November, 2018 and his complaint was number as C-1412. The Banking Ombudsman also rejected the claim of the petitioner. The respondent bank submitted its version to the Banking Ombudsman stating that the nomination forms are blank with regard to deposit to which the nomination is given and the signature of the deposits in two nomination is not tallying and further submitted that the petitioner should obtain legal representation from the competent court for settling the deceased's deposits lying with the bank. The Banking Ombudsman after verifying the complaint and the bank's reply, rejected the petitioner's complaint and agreed with the reasoning given by the 4th respondent.

9. I state that the petitioner also admitted in the writ petition that he is an Italian National and have been the President of the Sadhananda Asharam, which is promoted and founded by Mr.Sushil Majundar @ Sathiananda from 3.9.2005 to 3.9.2010 and continue as a Member of the Executive Committee of the Sadananda Asharam, however, he has omitted to implead the said Ashram as a respondent in the Writ Petition for the reasons best known to him. In fact, in the nomination form, relied by the petitioner, his name has been mentioned as in the representative capacity of the Asharam and not in individual *capacity. Inspite of that he failed and neglected to implead the Asharam as Respondent party which fact alone depicts the true state of affairs and intention of the petitioner to claim the amount in his individual capacity contrary to the intention of the deceased depositor.*

10. I humbly submit that the above facts enumerated clearly establishes the nomination relied by the petitioner as not valid as per the provisions under Section 45-ZA 1 of Banking Regulation Act read with Banking Companies (Nomination) Rules, 1985 for the following among other reasons :

(1) The nomination is incomplete as regard to the name of the nominee.

(2) The nomination is incomplete as to which type of account and specific account numbers for which nomination is given.

(3) The nominee can be only a individual person in his individual capacity and not as in representative capacity in this case, the President of Sadananda Asharam which is against the Banking Companies (Nomination) Rules, 1985. In view of the above Act and Rules the contentions of the petitioner to the contrary are without any merit and cannot be countenanced. Therefore, it is respectfully prayed that the relief sought by the petitioner cannot be granted.'

7. In the light of the stand taken in the counter affidavit, the petitioner wanted to find a solution and hence, the petitioner filed an affidavit before this Court and made it clear that the office bearers of the Sadhana Ashram do not have any objection for the amount being directly credited in the account of Sadhana Ashram.

8. This Court taking note of the affidavit filed by the petitioner passed the following order on 09.07.2025:

'An affidavit has been filed by the petitioner along with the letter dated 07.04.2025, wherein the petitioner has given his no objection to transfer the funds lying in the bank account of Sri Sushil Mazumdar alias Swami Satyananda to the bank account of Sadhana Ashram. The copies of the same have been served on the learned Standing Counsel appearing on behalf of the respondent Bank. The learned Standing Counsel for the respondent Bank seeks time to take instructions.

Post this case on 15.07.2025 at 2.15 P.M.'

9. Heard Mr.Anirudhkrishnan, learned counsel for petitioner, Mr.A.R.Sakthivel, learned Senior Panel Counsel appearing for first respondent, Mr.T.Poornam, learned counsel for second respondent and Mr.B.Raghavulu Naidu, learned counsel for respondents 3 and 4.

10. The fourth respondent was objecting to recognise the nomination of the petitioner mainly *on the ground that the nomination is incomplete and that the nominee can only be an individual person in his individual capacity and not in his representative capacity and in this case, the petitioner was only the President of Sadhana Ashram and in that capacity, he was seeking for nomination, whereas, he has filed the present writ petition in his individual capacity.*

11. Ultimately, the respondents 3 and 4 must be satisfied that the amounts that remain in the account of Sri Sushil Mazumdar @ Swami Satyananda, reaches the correct hands. Their earlier objection is that the nomination was not proper and the nominee must be in his individual capacity and he cannot be in the capacity of a representative of an organization. Therefore, the petitioner has filed an affidavit before this Court stating that the amount can be transferred to the bank account of the Sadhana Ashram, which was founded by the said Sri Sushil Mazumdar @ Swami Satyananda. This solution given by the petitioner will sufficiently take care of the apprehensions raised by respondents 3 and 4.

12. The only other issue to be taken note of is as to whether it requires any RBI clearance for transferring the amount lying in the bank account of Sri Sushil Mazumdar @ Swami Satyananda to the bank account of Sadhana Ashram, which is *maintained at Credem Banca, Perugia Branch, Italy.*

13. Learned counsel for the petitioner brought to the notice of this Court the Foreign Exchange Management (Remittance of Assets) Regulations 2016 and placed specific reliance upon Regulation 4 and Regulation 7. It was submitted that where the remittance does not exceed 1 million US dollar per financial year, it can be transferred. Learned counsel submitted that permission of Reserve Bank of India will be required only if the remittance exceeds 1 million US Dollar.

14. On carefully reading Regulation 4, it is seen that the insistence is on inheritance of the asset. Obviously, Sadhana Ashram to which amount is sought to be transferred, does not inherit the same from the deceased Sri Sushil Mazumdar @ Swami Satyananda. The Sadhana Ashram is coming into the picture since Sri Sushil Mazumdar @ Swami Satyananda during his life time had nominated the petitioner in his capacity as President of the Sadhana Ashram.

15. The word that has been used under Section 45-ZA of the Banking Regulation Act is "person". Whether an Ashram comes within the term "person" has to be decided. To enable this Court to take a decision, it has to be ascertained whether this Ashram can be construed as a trust *and whether it has been registered in the concerned country where it is established and it has gained the capacity as an entity.*

16. The other clarification that is required is as to whether there is any restriction in transferring the amounts as such from the account of the deceased Sri Sushil Mazumdar @ Swami Satyananda to the account of Sadhana Ashram. If the learned Standing Counsel appearing on behalf of the Reserve Bank of India is able to provide clarification, further orders can be passed in this writ petition.

17. Learned Standing Counsel appearing on behalf of the respondents 3 and 4 bank shall also take instructions on the number of bank accounts that stands in the name of the deceased Sri Sushil Mazumdar @ Swami Satyananda, nature of those accounts and the amounts lying in those bank accounts. This will give more clarity as to how the transfer of funds can be made from the respective bank accounts.

Post this writ petition under the caption "Part-Heard Cases" on 31.07.2025 at 02.15 p.m."

2. Pursuant to the above order, the matter was listed for hearing on 31.7.2025, on which date, the Standing Counsel appearing for

respondents 3 and 4 provided the details of deposits and this Court, after hearing the learned Standing Counsel appearing for the second respondent – Reserve Bank of India (RBI), passed the following order :

> *"Pursuant to the earlier order passed by this Court on 15.07.2025, the matter was listed for hearing today. The learned Standing Counsel appearing on behalf of the respondents 3 and 4 provided details of the deposits maintained in the name of Mazumdar Susheel/Sri Satyananda. For appreciation, the same is scanned and extracted hereunder:*

STATE BANK OF INDIA (0900)
15, RUE SUFFREN,
PONDICHERRY - 605001
TEL: (0413) 2336151 : 2336730 : TELE FAX: 0413-2335528
e-mail: sbi.00900@sbi.co.in : SWIFT: SBININBB228

31.07.2025

TO WHOMSOEVER IT MAY CONCERN

This is to certify that **Shri. MAZUMDAR SUSHIL** is maintaining Savings Account [NRE], Overdraft Account and Fixed deposits with us and the closing balance as on 31.07.2025 is given below, as per our bank record:

Sr. No	ACCOUNT NUMBER	ACCOUNT TYPE	TOTAL BALANCE
1	10831599990	STDR- NRE-IND-INR	Rs. 177353
2	10831600000	STDR- NRE-IND-INR	Rs. 344105
3	10831600011	OD- NRE-IND-INR	Rs. 12675819
4	10831600022	STDR- NRE-IND-INR	Rs. 1616506
5	10831600033	STDR- NRE-IND-INR	Rs. 2147256
6	10831600044	STDR- NRE-IND-INR	Rs. 2700693
7	10831600055	STDR- NRE-IND-INR	Rs. 488070
8	10831600066	STDR- NRE-IND-INR	Rs. 249675
9	10831600077	STDR- NRE-IND-INR	Rs. 701399
10	10831600088	STDR- NRE-IND-INR	Rs. 803736
11	10831600099	STDR- NRE-IND-INR	Rs. 6965108
12	10831600102	STDR- NRE-IND-INR	Rs. 1822653
13	10831434268	SB-NRE-IND-INR	Rs. 285882
		TOTAL	**Rs. 30978255**

Sr. No	ACCOUNT NUMBER	ACCOUNT TYPE	TOTAL BALANCE	USD @ 88.151
1	10831604833	STDR-NRE-IND-USD	USD 1786.56	Rs. 157485
2	10831604844	STDR-NRE-IND-USD	USD 250592.42	Rs. 22089721
		TOTAL	**USD 252378.98**	**Rs. 22247206**

Sr. No	ACCOUNT NUMBER	ACCOUNT TYPE	TOTAL BALANCE	EURO@ 101.42
1	10831607120	STDR-NRE-IND-EUR	EUR 80572.49	Rs. 8171661.93
2	10831607131	STDR-NRE-IND-EUR	EUR 4678.98	Rs. 474542.15
3	10831607142	STDR-NRE-IND-EUR	EUR 14326.69	Rs. 1453012.89
			EUR 99578.16	**Rs.10099216.97**

The Grand Total Rs.6,33,24,677.97

S. Anbumalan
Assistant General Manager

State Bank of India, Pondicherry Br.

STATE BANK OF INDIA (0900)
15, RUE SUFFREN,
PONDICHERRY - 605001
TEL: (0413) 2336151 : 2336730 : **TELE FAX**: 0413-2335528
e-mail: sbi.00900@sbi.co.in : **SWIFT**: SBININBB228

31.07.2025

TO WHOMSOEVER IT MAY CONCERN

This is to certify that **Shri. Satyananda** is maintaining Fixed deposits and Overdraft account with us and the closing balance as on 31.07.2025 is given below, as per our bank record:

SL NO	ACCOUNT NUMBER	ACCOUNT TYPE	TOTAL BALANCE
1	10831600306	OD-PUB-IND-INR (RI)	Rs. 12518553
2	10831600328	STDR- NRE-IND-INR	Rs. 2373422
3	10831600339	STDR- NRE-IND-INR	Rs. 4915735
4	10831600340	STDR- NRE-IND-INR	Rs. 856999
5	10831600351	STDR- NRE-IND-INR	Rs. 4075936
6	10831600317	STDR- NRE-IND-INR	Rs. 707783
		TOTAL	**Rs. 25448428**

SL NO	ACCOUNT NUMBER	ACCOUNT TYPE	TOTAL BALANCE	USD @ 88.151
1	10831605021	FCNR [FIXED DEPOSIT]	USD 1647.58	Rs. 145234.17
2	10831607153	FCNR [FIXED DEPOSIT]	USD 5444.51	Rs. 479933.55
		TOTAL	**USD 7092.09**	**Rs. 625167.72**

The Grand Total Rs.2,60,73,595.72

S. Arbumalar
Assistant General Manager

2. This Court also heard the learned Standing Counsel appearing on behalf of the Reserve Bank of India (RBI). The learned Standing Counsel, apart from relying upon Section 45ZA of the Banking Regulation Act, 1949, also placed reliance upon the Banking Companies (Nomination)

Rules, 1985, and the master circular of the Reserve Bank of India (RBI), which was updated in the year 2015. Considering the submissions of the learned Standing Counsel, it will be more appropriate if the Reserve Bank of India (RBI) files a counter affidavit in this case. The stand to be taken by the Reserve Bank of India (RBI) will play a major role while deciding this writ petition.

3. The learned counsel for the petitioner has filed a note touching upon various regulations. Hence, when the counter affidavit is filed by the Reserve Bank of India (RBI), the said note can also be taken into consideration so that the affidavit itself can address those issues that have been flagged in the note. A copy of the counter affidavit to be filed by the Reserve Bank of India (RBI) shall be served in advance to the learned counsel for the petitioner so that the learned counsel can prepare a response.

4. Post this writ petition on 19.08.2025, at 02:15 P.M., under the caption "Part-Heard Cases."

3. When the matter is taken up for hearing today, the second respondent - RBI filed a counter affidavit along with relevant Regulations and circulars. The RBI has taken the following stand :

In so far as the nomination is concerned, the relevant Rule and the circulars issued by the RBI specifically provide that only an individual can be appointed as a nominee. An association or an entity cannot be considered to be a nominee as per the relevant Rule and the circulars issued by the RBI. If any remittance of asset held in India has to be made where the remitter is not a legal heir, it would require permission of the RBI. Consequently, the proposed transfer of funds from the account of the deceased to the overseas account of the Ashram would require specific permission from the RBI. Therefore, if the petitioner or the Ashram is able to establish that they are the nominees of the deceased, the balance amount now available under the Non Resident External (NRE) account can be remitted abroad to the account of the non resident nominee. In case of Non Resident Ordinary (NRO) accounts, the balance can be credited to the NRO account of the non resident nominee. Thus, the permission of the RBI for transfer of funds will arise only if the petitioner/Ashram is able to establish that they are the nominees of the deceased account holder.

4. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on

record and more particularly the impugned letter issued by the fourth respondent.

5. The writ petition was initially filed by the petitioner in his individual capacity. Subsequently, an affidavit dated 07.4.2025 was filed by the petitioner along with the letter dated 07.4.2025 wherein the petitioner has given no objection to transfer the funds lying in the bank account of the deceased to the bank account of Sadhana Ashram. This stand taken by the petitioner was recorded in the earlier order passed on 09.7.2025.

6. One Mr.Sushil Mazumdar, who was later rechristened as Sri Swamy Sathyananda, was said to be a spiritual master. In the year 1976, he founded Sadhana Ashram, which is an international centre for spiritual and cultural research. In 1978, the Ashram was established in San Presto, Saint Francis. Sri Swamy Sathyananda had investments in the State Bank of India (SBI) and this money was used for the growth and operation of the Ashram. The petitioner, who is an Italian national and who was the erstwhile president of Sadhana Ashram, was nominated as the nominee of Sri Swamy Sathyananda by

submitting Form DA-1 to the fourth respondent. Sri Swamy Sathyananda passed away on 18.9.2007 in Tibet.

7. Pursuant to that, the petitioner sent a letter dated 28.1.2008 to the fourth respondent informing that he is the successor of late Sri Swamy Sathyananda in his capacity as the nominee. On receipt of the letter from the petitioner, on 12.9.2009, the fourth respondent issued a letter stating that the petitioner must open an NRO savings bank account with them. The letter communication was going back and forth and every time, a clarification was sought for by the fourth respondent. Ultimately, the petitioner decided to get the entire funds transferred and filed a complaint on 30.11.2018 before the Banking Ombudsman, Chennai. The said complaint was dismissed by order dated 09.1.2019 and it was communicated to the petitioner. It is under these circumstances, the above writ petition came to be filed before this Court.

8. The documents filed by respondents 3 and 4 would establish the fact that the petitioner was shown as the nominee in his capacity as the president of Sadhana Ashram in Form DA-1. That apart, there

are three types of accounts, in which, the funds are available. They are:

(i) NRE Account;

(ii) NRO Account; and

(iii) Foreign Currency Non Resident (FCNR) Account.

9. There are three issues, which require the consideration of this Court. They are :

(1) Whether the nomination made in favour of the petitioner is valid in the eye of law ?

(2) Whether the Foreign Exchange Management (Remittance of Assets) Regulations, 2016 (hereinafter called the Remittance Regulations) govern remittance of monies held in the bank accounts with the SBI to a foreign citizen nominee ?

(3) Whether Sadhana Ashram is a legal entity and can be brought within the fold of the

term "***nominee"*** in order to transfer the funds in favour of the Ashram?

10. In so far as the first issue is concerned, it will be relevant to take note of the provisions of Section 45-ZA of the Banking Regulation Act, 1949 (for short, the Act), which deal with nomination for payment of the depositor's money. It will also be relevant to take note of Rule 2(7) of the Banking Companies (Nomination) Rules, 1985 (for short, the Rules). It is further relevant to take note of the Master Circular on Customer Service in Banks issued by the RBI dated 01.7.2015 and more particularly Clause 19.7.1.

11. A learned Single Judge of the Calcutta High Court in the case of ***Communist Party of India (Marxist) Vs. United Bank of India [reported in 2016 SCC OnLine Calcutta 12216]*** dealt with in detail the interplay between the relevant provisions under the Act read with the relevant Rule mentioned supra. The relevant portions in this judgment are extracted as hereunder :

> *"18. What follows from the above is that a nomination is open to be made by the depositor of money in a banking company in favour of a person*

i.e. The nominee, by filling up Form DA-1, which is the appropriate form which has to be used for nomination under section 45-ZA of the Act read with rule 2(1) of the Rules, and in the event of the death of the depositor, the banking company would be under an obligation to return the amount of deposit to such person, i.e. The nominee.

19. The word "person" in section 45-ZA(1) of the Act (who may bo nominated by a depositor for receiving the amount of deposit in the event of his death) has not been defined in the Act. It would, therefore, be useful to refer to the definition of "person" in the G.C. Act. Section 3(42) defines "person" as:

3. Definitions.— in this Act, and in all General Acts and Regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context,

(42) "person" shall include any company or association or body of individuals, whether incorporated or not;

20. It is clear on reading of the above definition that unless the context requires otherwise, the inclusive definition of "person" would cover a body, whether incorporated or not.

21. Perusal of the contents of Form DA-1 also reveals that it refers to the "person" nominated by the depositor who would be entitled *to return of the amount of deposit by the banking company.*

22. There is no legal bar in construing the word "person" in section 45ZA(1) of the Act bearing in mind its definition in the G.C. Act and having regard to the decisions cited by Mr. Sen, there is no real difficulty in construing the Word "person" to include a political party. So far so good.

23. The problem, if at all, seems to have arisen because firstly, rule 2 of the Rules and the master circular do not refer to "person" but to an "individual" who can be nominated by the depositor to receive the amount of deposit in the event of his death and secondly, the master circular expressly prohibits nomination for such purpose in favour of any association, trust, society or any other organisation or any office-bearer thereof in his official capacity.

24. This Bench is of the considered view that mindless framing of rules and issuance of circulars, which are at variance with the enactment conferring power to the executive to frame rules/issue circulars, is the root of all problems. When the Act in Section 45ZA(1) and the Rules in Form DA-1 have used the word "person", it is open to question as to whether in rule 2 or in paragraph 19.7.1, the word "individual" could be used and thereby restrict the operation of the Act. It is well

> *known that a rule framed Under an enactment can only supplement such enactment and not supplant it; likewise, a circular cannot supplant a rule, it can only supplement. Bearing in mind the contours of the Act, it seems to be wrong in principle to interpret the rule/circular in such manner that would result in the amplitude of the word "person" in Section 45ZA(1) being abridged, abrogated or cut down to mean an "individual". As the stream can rise no higher than its source, a rule/circular cannot rise above the enactment that is its source. The word "individual" cannot thus be construed in a narrow manner so as not to cover a body, which is covered by the meaning of the word "person", and it must receive the same meaning as 'person'."*

12. In the said decision, the Calcutta High Court held that a nomination can be made by a depositor of money in a banking company in favour of a "***person***" under Section 45-ZA of the Act. To understand the term "***person",*** the Calcutta High Court relied upon the definition provided under Section 3(42) of the General Clauses Act, which states that the term "***person***" shall include any company or association or body of individuals, whether incorporated or not. The Calcutta High Court came to the conclusion that the inclusive definition of the term "***person***" will cover a body, whether incorporated or not.

Thereafter, the Calcutta High Court went on to deal with the term ***'individual'*** mentioned in Rule 2(7) of the Rules. The Calcutta High Court also took into consideration the Master Circular on Customer Service in Banks of the year 2013 and a specific reliance was placed on Clause 19.7.1. While dealing with the interplay of all these provisions, it was held that the relevant Rule and the Master Circular issued by the RBI are restricting the term "***person***" that is used under Section 45-ZA of the Act and that it cannot supplant the amplitude of the term "***person"*** used in Section 45-ZA of the Act. It was, therefore, held that the word ***"individual"*** cannot be construed in a narrow manner so as not to cover the association or body of individuals.

13. This Court is in complete agreement with the said decision of the Calcutta High Court.

14. When the Act has specifically used the word ***"person",*** the relevant Rule cannot restrict it with the word ***"individual".*** Consequently, it must be held that even a company or an association or a body of individuals, whether incorporated or not, can be appointed as a nominee.

15. When the relevant form was submitted before the fourth respondent by nominating the petitioner as the nominee, no objections were raised by the SBI. However, when it comes to repatriation of the amount, an objection has been raised to the effect that the petitioner cannot be recognized as a nominee by virtue of the relevant Rule. This stand taken by respondents 3 and 4 is wholly unsustainable. If at all there was any objection in naming the petitioner as the nominee, it should have been raised then and there and it is too late in the day to raise these objections after the demise of the original account holder.

16. In the light of the above discussions, this Court holds that the nomination made in the name of the petitioner in his capacity as the president of Sadhana Ashram is held to be valid in the eye of law.

17. This Court will now take up the third issue namely whether Sadhana Ashram is a legal entity.

18. The Constitution of Italian Republic was placed before this Court. Article 18 provides for freedom to its citizens to freely form associations. Article 22 of the Legislative Decree dated 03.7.2017

recognizes associations as legal entities. Sadhana Ashram has a certificate of registration as an association. A copy of the same has been filed before this Court along with the affidavit of the petitioner dated 17.7.2025. In view of the same, this Court holds that Sadhana Ashram is a legal entity since it has been registered as an association. The third issue is answered accordingly.

19. The second issue as to whether the Remittance Regulations govern remittance of monies held in the bank accounts with the SBI to a foreign citizen nominee is now taken up for consideration.

20. Regulation 3 of the Remittance Regulations prohibits remittance of assets outside India subject to any other Rules and Regulations made under the Foreign Exchange Management Act, 1999. The provisions are available under the Foreign Exchange Management (Deposit) Regulations, 2016 (for brevity, the Deposit Regulations), which deal with repatriation of funds to a non resident nominee in case of NRE accounts and payment of funds to the non resident nominee in case of NRO accounts. Sadhana Ashram is a non resident nominee of late Sri Swamy Sathyananda, who held the NRE and the NRO accounts

with the fourth respondent bank. Regulation 5 of the Deposit Regulations provides that an authorized dealer can accept deposit under the NRE and the NRO accounts.

21. Further, in so far as the NRE accounts are concerned, Schedule I of the Deposit Regulations regulates their operation. Rule 8 in Schedule I of the Deposit Regulations permits repatriation of funds to the non resident nominee. There is no restriction regarding the same. Therefore, the fourth respondent can transfer the funds lying in the NRE accounts of late Sri Swamy Sathyananda to the account of Sadhana Ashram.

22. Schedule III of the Deposit Regulations deals with the NRO account. Rule 10 in Schedule III of the Deposit Regulations stipulates the payment of funds to the non resident nominee . It states that the amount due and payable to the non resident nominee from the account of the deceased account older can be credited only to the NRO account of the nominee.

23. In the case in hand, the petitioner has already opened an NRO account and therefore, there will be no restriction in transferring the funds lying in the NRO account of late Sri Swamy Sathyananda to the NRO account of the petitioner. Thereafter, the petitioner can cause remittance of the same to the account outside India in line with Rule 3(B)(ii) in Schedule III of the Deposit Regulations.

24. In so far as the amount that can be transferred is concerned, it is dealt with by Master Circular No.6/2011-12 dated 01.7.2011 issued by the RBI and it prescribes a cap of USD 1,000,000, beyond which, the authorized dealer will have to get the concurrence of the RBI. Before such transfer, the authorized dealer is duty bound to obtain a declaration from the remitter before undertaking the transactions for verification by the RBI. This mandate is available in the Master Circular.

25. It is brought to the notice of this Court that less than USD 1,000,000 is available in the NRO account of the deceased and that therefore, it can be repatriated to the NRO account of the petitioner

held with the fourth respondent. Thereafter, the amount can be transferred to the account of Sadhana Ashram.

26. Since the amount to be remitted is less than USD 1,000,000, it will not require the permission of the RBI. However, the declaration has to be obtained for verification of the RBI as stated supra.

27. In so far as the amount that is available in the FCNR account is concerned, the same Regulations as applicable for the NRE account will apply as per Rule 4(c) in Schedule I of the Deposit Regulations. In the light of the above discussions, the Deposit Regulations permit remittance of the monies held in the bank accounts with the fourth respondent bank to the foreign citizen nominee. The second issue is answered accordingly.

28. The upshot of the above discussions leads to the only conclusion that the petitioner will be entitled for the relief as sought for.

29. Accordingly, the writ petition is allowed and the funds available in the various accounts maintained with the fourth respondent bank shall be repatriated as per the Deposit Regulations by following due procedure. This process shall be completed by respondents 3 and 4 within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected WMPs are closed.

21.8.2025

Index : Yes
Neutral Citation : Yes

To
1.Union of India, through the
Ministry of Finance (Department
of Financial Services),
III Floor, Jeevan Deep Building,
Sansad Marg, New Delhi-110001.

2.The Reserve Bank of India,
Rep.by General Manager
(In-charge), Department of
Banking Supervision,
Fort Glacis, 16, Rajaji Road,
Fort St.George, Chennai-1.

3.The State Bank of India, rep.
By General Manager (NRI
Division), Rajaji Road, Mannadi,
Chennai Port Trust, Chennai-1.

4.The State Bank of India, rep.by
Chief Manager (NRI Cell), 15,
Rue Suffren, Pondicherry.
605001.

RS

N.ANAND VENKATESH,J

RS

W.P.No.15447 of 2022 &
WMP.Nos.14595 and 17272
of 2022

21.8.2025