



W.P.No.26486 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 11.06.2025

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

W.P.No.26486 of 2023

AND

W.M.P.No.25894 of 2023

Badri Kasturi

.. Petitioner

Vs.

1.Wilful Defaulter Identification Committee
Stressed Assets Management Branch
State Bank of India
Red Cross Building
32 Montieth Road, Egmore
Chennai 600 008

2.The Branch Manager
State Bank of India
Red Cross Building
32 Montieth Road, Egmore
Chennai 600 008

3.The Reserve Bank of India
Department of Banking Regulation
13th Floor, Central Office Building
Mumbai 400 001

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of declaration to declare that the entire proceedings of the



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respondent, Wilful Defaulter Identification Committee, commencing from the issuance of the Show Cause Notice dated 19.02.2018 to the declaration of the petitioner as 'Wilful Defaulter', as unconstitutional and ultra vires, and in total disregard to the safeguards provided under the RBI Master Circular dated 1st July 2015.

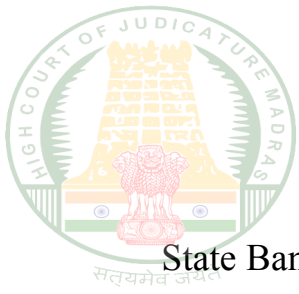
For Petitioner : Mr.Naveen Infant
For RR1 & 2 : Mr.M.L.Ganesh
For R3 : Mr.C.Mohan
Ms.A.Rexy Josephine Mary
for M/s.King & Patridge

ORDER

This writ petition has been filed to declare that the proceedings of the 1st respondent commencing from the issuance of the Show Cause Notice dated 19.02.2018 and ultimately, declaring the petitioner as a willful defaulter is unconstitutional and ultra vires and in total disregard to the safeguards provided under the RBI's Master Circular dated 01.07.2015.

2. Heard both sides and perused the materials placed on record.

3. The case of the petitioner is that he was the Director of Connect Wind (India) Private Limited. The said company obtained financial assistance from the

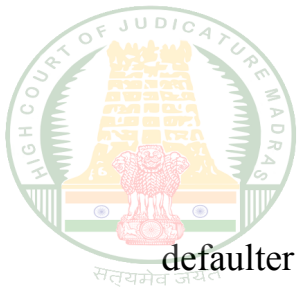


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State Bank of Hyderabad, which was subsequently merged with the 2nd respondent.

The petitioner also stood as personal and corporate guarantor for a company called PPS Enviro Power Pvt. Ltd. There was a default in the payment of loan and as a result, SARFAESI proceedings were initiated by the State Bank of Hyderabad, which was thereafter continued by the State Bank of India. The 2nd respondent initiated proceedings for the sale of wind mills through e-auction dated 19.03.2018. In the meantime, the 2nd respondent issued a Show Cause Notice and informed the petitioner that the Willful Defaulter Identification Committee had concluded that the petitioner has committed willful default and directed the petitioner to give his submissions in writing. The petitioner submitted his objections and thereafter, there was no personal hearing. However, the 1st respondent issued a public notice on 10.08.2019, declaring the petitioner as a willful defaulter with his photograph. It is under these circumstances, the present writ petition came to be filed before this Court.

4. Counter affidavit has been filed by the respondents 1 and 2. They have taken a stand that the process of willful default identification involves various stages. The 1st stage is where the Show Cause Notice is issued. The 2nd stage involves scheduling of personal hearing by the Committee, where the willful



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defaulter is given a chance to give his clarifications/views on the allegations raised against him. It is stated that in spite of several opportunities given to the petitioner, he did not choose to attend the enquiry. Ultimately, the petitioner was declared as a willful defaulter. That apart, the petitioner was involved in diverting the public funds for ulterior purpose and the same resulted in registration of an FIR by CBI. Apart from that, proceedings were initiated by the 2nd respondent Bank under the Insolvency Bankruptcy Code (IBC), 2016, against the petitioner, in his capacity as the personal guarantor of PPS Enviro Power Pvt. Ltd. In view of the same, the 2nd respondent has sought for dismissal of this writ petition.

5. The order passed by the National Company Law Tribunal, Hyderabad Bench-I, dated 11.11.2024, was placed before this Court. On going through the same, it is seen that the application was filed by the 2nd respondent Bank under Section 121 read with Section 123 of IBC, 2016, read with Rule 7 of IBC (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtor) Rules, 2019, to initiate bankruptcy process against the petitioner, in his capacity as a guarantor of corporate debtor. Ultimately, the bankruptcy process was ordered against the petitioner and Mr.Mahalingam Suresh Kumar has been appointed as the Bankruptcy Trustee



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under Section 125 of IBC. It is also made clear that the order of bankruptcy will continue to have effect till the debtor is discharged under Section 138 of IBC.

6. In the light of the above development, the petitioner cannot be allowed to question the declaration of the petitioner as a willful defaulter on mere technicalities. The fact remains that the petitioner is a defaulter and the same has resulted in the bankruptcy process ordered against the petitioner by the NCLT.

Hence, this Court does not find any merit in this writ petition and accordingly, dismissed. No costs. Connected W.M.P. is closed.

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Index : Yes/No

Neutral Citation : Yes/No

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N. ANAND VENKATESH, J.

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