IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-11-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP No. 44901 of 2025

Hu Si Niang
No.3C/5, Latha Flats Mangala Nagar,
1st Cross Street, Porur,
Chennai - 600 116.

Petitioner(s)

Vs

1.M/s. HSBC Ltd.,
Mumbai Fort Main Branch,
No.52/60, Mahatma Gandhi Road,
Mantralaya, Mumbai - 400 032.

2.Reserve Bank of India
Fort Glacis, No.16, Rajaji Road,
Fort St. George, Chennai – 600 001.

3.Reserve Bank of India
6, Sansad Marg, Sansad Marg Area,
New Delhi, Delhi – 110 001.

Respondent(s)

PRAYER
This writ petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the 2nd respondent Reserve Bank of India to initiate appropriate action into the representation dated 26.02.2025 with regard to the Non-payment of the 6 fixed deposits, deposited with the 1st Respondent HSBC Ltd, Fort Mumbai Branch.

For Petitioner(s): Mr.D.Arun Kumar

ORDER

This writ petition is filed to direct the second respondent Reserve Bank of India to initiate appropriate action into the petitioner's representation dated 26.02.2025 with regard to the Non-payment of the 6 fixed deposits, deposited with the 1st Respondent HSBC Ltd, Fort Mumbai Branch.

2.The case of the petitioner is that in the year 1990 he had opened 6 fixed deposits and all were in US $. The total sum deposited by the petitioner amounted to more than $ 30,000. All the above mentioned fixed deposits were put on auto renewal mode. The petitioner after opening the 6 fixed deposits migrated to the USA and stayed their continuously till 2011. Since 2011 the petitioner is residing in India and that in the year 2023 the petitioner produced 6 FD receipts before the first respondent bank and sought for return of his money. However, the first respondent after receipt of the petitioner's complaint, sent it to their Ombudsman, who termed the same as vintage account and closed the complaint of the petitioner. The petitioner thereafter lodged a complaint with the second respondent/RBI Chennai on 26.02.2025. However, no action has been taken by the second respondent till date. Hence, the present writ petition.

3.The learned counsel for the petitioner would submit that a direction be issued to the second respondent to consider the complaint of the petitioner dated

26.02.2025 and to pass appropriate order, within a stipulated time as fixed by this Court.

4.Heard the learned counsel on either side and perused the materials available on record.

5.The petitioner has sought for a direction to the second respondent for initiating appropriate action into the representation of the petitioner dated 26.02.2025 with regard to the non-payment of the 6 fixed deposits, deposited with the first respondent HSBC Ltd, Fort Mumbai Branch. However, a writ petition is not maintainable as against the private bank. As regards the maintainability of a writ petition against a private bank, the Hon'ble Supreme Court of India in the case of ***Federal Bank Ltd. vs. Sagar Thomas and Ors.*** [MANU/SC/0769/2003]; [(2003) 10 SCC 733] dated 26.09.2003, has held as under;

> *"32. The other case which has been heavily relied upon is Andi Mukta (supra). It is no doubt held that a Mandamus can be issued to any person or authority performing public duty, owing positive obligation to the affected party. The writ petition was held to be maintainable since the teacher whose services were terminated by the institution was affiliated to the university and was governed by the Ordinances, casting certain obligations which it owed to that petitioner. But it is not the case here. Our attention has been drawn by the learned counsel for the appellant to paragraphs 12, 13 and 21 of the decision (Andi Mukta) to indicate that even according to this case no writ would lie against the private body except*

where it has some obligation to discharge which is statutory or of public character.

33. Merely because the Reserve Bank of India lays the banking policy in the interest of the banking system or in the interest of monetary stability or sound economic growth having due regard to the interests of the depositors etc. as provided under Section 5(c)(a) of the Banking Regulation Act does not mean that the private companies carrying on the business of or commercial activity of banking, discharge any public function or public duty. These are all regulatory measures applicable to those carrying on commercial activity in banking and these companies are to act according to these provisions failing which certain consequences follow as indicated in the Act itself. Provision regarding acquisition of a banking company by the Government, it may be pointed out that any private property can be acquired by the Government in public interest. It is now judicially accepted norm that private interest has to give way to the public interest. If a private property is acquired in public interest it does not mean that the party whose property is acquired is performing or discharging any function or duty of public character though it would be so for acquiring authority.

34. For the discussion held above, in our view, a private company carrying on banking business as a scheduled bank, cannot be termed as an institution or company carrying on any statutory or public duty. A private body or a person may be amenable to writ jurisdiction only where it may become necessary to compel such body or association to enforce any statutory obligations or such obligations of public nature casting positive obligation upon it. We don't find such conditions are fulfilled in respect of a private company carrying on a commercial activity of banking. Merely regulatory provisions to ensure such activity carried on by private bodies work within a discipline, do not confer any such status upon the company nor puts any such obligation *upon it which may be enforced through issue of a writ under Article 226 of the Constitution. Present is a case of disciplinary action being taken against its employee by the appellant Bank. Respondent's service with the bank stands terminated. The action of the Bank was challenged by the respondent by filing a writ petition under Article 226 of the Constitution of India. The respondent is not trying to enforce any statutory duty on the part of the Bank.*

6.In view of the Judgment passed by the Hon'ble Supreme Court of India in ***Sagar Thomas*** case, the prayer sought for by the writ petitioner in the present writ petition cannot be granted and hence, the same is dismissed, with liberty to the petitioner to work out his remedy in the manner known to law. No costs.

25-11-2025

Tsg
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

1.The Reserve Bank of India,
For Glacis, No.16, Rajaji Road,
Fort St.George, Chennai – 600 001.

2.The Reserve Bank of India,
6, Sansad Marg, Sansad Marg Area,
New Delhi, Delhi – 110 001.

M.DHANDAPANI J.
Tsg

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