



W.P (MD).No.24700 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2025

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P (MD).No.24700 of 2024

and

W.M.P(MD)No.21022 of 2024

S.Suresh Kumar Babu

... Petitioner

Vs.

1.The Indian Banks' Association,
Represented by its Chief Executive Officer,
World Trade Centre,
6th Floor, Central Building,
World Trade Centre Complex,
Cuffe Parade,
Mumbai-400 005.

2.The State Bank of India,
Represented by its Deputy General manager (B&O)
C.C.O.Department,
Local Head Office,
"Circletop House",
Group Floor, 16 College Lane,
Nungambakkam,
Chennai-600 006.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the first respondent to remove the name of 'S.Sureshkumar Babu' from the IBA Third Party Caution List.



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For Petitioner : Mr.Sharath Chandran
For R2 : Mr.N.Dilip Kumar

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus directing the 1st respondent to remove the petitioner's name from the IBA Third Party Caution List.

2. The petitioner is a registered valuer in the nationalised and private sector banks from the year 2009. The petitioner is a panel valuer of the 2nd respondent bank. In the year 2023, the 2nd respondent bank had issued a show cause notice stating that the valuation reports submitted by the petitioner on 20.03.2019, 05.09.2019 and 29.01.2021 have turned into NPA and the property did not belong to the borrower. Thereafter, the petitioner sent reply dated 23.03.2023 to the bank that the duty of the valuer is to assess the value of the asset and the petitioner had no play in assessing the property credentials and its title. However, the petitioner's name was added in the IBA third party caution list maintained by the office of the 1st respondent. Therefore, the petitioner was de-panelled from the Bank. Challenging the same, the petitioner has filed this Writ Petition.



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3. The learned counsel for the petitioner submitted that though notice was issued, no opportunity has been granted to the petitioner and the petitioner has not been heard before publishing the name of the petitioner in the caution list prepared by the first respondent. According to him, if such caution list is allowed to continue, it will affect the petitioner's right and it violates Article 19 of the Constitution of India. According to the petitioner, in a similar occasion when an opportunity has not been granted, this Court has allowed the writ petition in W.P.No.14801 of 2022 and ordered to remove the name of the petitioner therein from the caution list. Hence, the similar relief can be granted to the petitioner also.

4. Though notice has been served to the first respondent and the name of the first respondent has been shown in the cause list, none appeared on behalf of the first respondent.

5. It is the contention of the learned counsel appearing for the second respondent that as one occasion, the petitioner has not properly valued the property, which has resulted in granting excess loan. Therefore, they have depanelled the petitioner.



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6. Heard the learned counsel for the petitioner and the learned counsel appearing for the second respondent and perused the materials available on record.

7. Considering the facts and circumstances of the case, this Court is of the view that before taking any action, which has a civil consequence, a procedure has to be followed particularly, the principal of natural justice has to be followed and if any order is passed without giving any opportunity, such order cannot be sustained in the eye of law. In a similar case in ***M/s.Vitec Consultancy Vs. Indian Banks' Association and Others*** in ***W.P.No.14801 of 2022***, this Court by an order ***dated 10.01.2023*** has passed the following order:

“14. In that particular order which Writ Petition was also filed, seeking the same relief, namely to remove the name of the petitioner therein from the Caution List, the learned Single Judge had extracted the following from the Hand Book:

“14. Clause 1.4 and 1.5 of the handbook on policy standards and procedures for real estate valuation by banks and housing finance institutions in India reads as follows:

“1.4 Removal

In extreme cases where the valuer has been found to be indulging in unfair practices, guilty of professional misconduct, violating the code of ethics and professional practice, he shall be removed from the panel. The procedure to be followed by the banks/housing finance



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institutions shall comprise of the following steps:

- issue of show cause notice
- hearing
- appropriate action, including removal from the panel for a period of five years, if charges are found serious.

1.5 Re-Empanelment

Valuers once removed from the panel of any bank or housing finance institution could be re-empanelled again after a specified period, based on the recommendations of the bank Conflict Resolution Committee. Names of valuers removed shall be reported to the Indian Banks' Association which in turn shall place the names on its Caution List.”

15. A careful reading of the above shows that a Show Cause Notice has to be issued and a hearing has to be conducted and thereafter, appropriate action has to be done including removal from the panel for a period of five years if the charges are serious.

16. In the instant case, there was only one stray occasion, where the petitioner had unfortunately come to the adverse notice of the 2nd respondent on the charge of over-valuing a particular site in the year 2014.

17. A further perusal of the Clauses extracted above also shows that those who are removed from the panel can again be re-empanelled.



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18. Taking into consideration the fact that the name of the petitioner had been uploaded without any opportunity being given by the 1st respondent directly, I would, also taking into consideration the fact that the 1st respondent had taken a conscious decision not to appear before this Court or be represented before this Court, and balancing that factor with the fact that by uploading the name of the petitioner, the petitioner has come to the adverse knowledge of all the banks which is an extreme step taken, interfere with the uploading of the name of the petitioner by the 1st respondent in their website, and issue a direction that this should be removed immediately.

19. All individual Banks are given freedom to independently engage the petitioner as a valuer on the basis of the confidence they have on the capabilities of the petitioner herein. But there cannot be a restraint of trade absolutely. 20. I am therefore compelled to pass an order, allowing the Writ Petition and directing that the name of the petitioner must be removed from the website of the 1st respondent. Any Bank and every Bank is given the freedom to engage the petitioner as a professional valuer subject.

20. I am therefore compelled to pass an order, allowing the Writ Petition and directing that the name of the petitioner must be removed from the website of the 1st respondent. Any Bank and every Bank is given the freedom to engage the petitioner as a professional valuer subject.”

8. Considering the above judgment, this Court is of the view that no opportunity has been given to the petitioner before publishing the name of the



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petitioner in the caution list and if such order is allowed to continue, it will have a civil consequence and it will affect the very profession of the petitioner also.

9. Accordingly, this Writ Petition is allowed. The first respondent is directed to give an opportunity of hearing to the petitioner before publishing the name of the petitioner in the caution list and pass orders within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Internet : Yes
Index : Yes/No
Speaking/Non Speaking order
am

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G.K.ILANTHIRAIYAN, J.

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