



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

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CWP-3697-2025.

Date of Decision: 10.02.2025.

M/s Jai Sharda Rice Mills and another

....Petitioners.

VERSUS

Bank of India

....Respondents.

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. B.B. Bagga, Advocate for the petitioners.

Mr. Gaurav Goel, Advocate and
Mr. Vinay Kumar, Advocate for respondent-Bank.

ANUPINDER SINGH GREWAL, J. (Oral)

The petitioners are seeking direction for ensuring compliance by the respondent-Bank to the instructions contained in Circular No.DOS.CO.FMG.SEC.NO.5/23.04.01 (2024-2025) dated 15.07.2024 (Annexure P-23) of Reserve Bank of India and to quash letter dated 23.10.2017 (Annexure P-12), whereby the account of the petitioner-firm has been declared as fraud.

2. Learned counsel for the petitioners submits that petitioner No.1-firm has been erroneously declared as 'fraud' without any show cause notice or affording any opportunity of hearing. He has relied upon the judgement of the Supreme Court in the case of **State Bank of India and Ors. vs. Rajesh Agarwal and Ors., (2023) 6 SCC 1.**

3. Learned counsel for the respondent-Bank submits that the FIR No.RC-219-2018 E 0014 (Annexure P-22) had been registered against petitioner No.2 along with other partner and guarantors on 22.10.2018 and petitioner No.2 has also been convicted and sentenced in the above-mentioned FIR on 09.10.2024. While referring to the FIR also, he submits that it has been clearly spelt out in the FIR that petitioner No.1-firm has been declared 'fraud' on account of diversion of funds.

4. Heard.

5. The petitioners are challenging the action of the respondent-Bank in declaring the petitioner No.1-firm as 'fraud' by the letter dated 23.10.2017 (Annexure P-12). In response to the query of this Court, as to whether the petitioners had knowledge about the account being declared fraud since petition is belated, learned counsel submits that the petitioners were earlier not aware of the declaration of fraud and had come to know about it only in the year 2023. However, it is apparent from perusal of the FIR, which had been registered against petitioner No.2 and another partner as well as guarantors of petitioner No.1-firm, on 22.10.2018, that petitioner No.1-firm had been declared as 'fraud' by the respondent-Bank in the year 2017, which finds mention in Paragraph 10 of the FIR (Annexure P-22). The relevant extract of the FIR is reproduced hereunder:-

"10. Apart from the aforementioned firm, Shri Bhupinder Singh and Shri Jarnail Singh are guarantors in the account of M/s Jai Sharda Rice Mill. Despite repeated reminder and vigorous follow up by the Bank, the conduct of account of firm remained unsatisfactory and ultimately the account was classified NPA on

31.03.2016. The Bank has already filed petition for recovery of Bank's dues of Rs.1693.06 lakhs + interest in DRT in the account of M/s Jai Sharda Rice Mills which is pending in Case No.17295/ 2016 dated 26.09.2016. The SARFAESI action was taken in this account by issuing notice under section 13(2) on 27.04.2016 and the matter is under process. The Bank declared the borrowing account of M/s Jai Sharda Rice Mill as fraud by submitting FMR-1 to RBI on 27.04.2017. The Bank has declared fraud on the grounds that:-

- a) Diversion of funds to sister concern/group concern w.e.f. 10.01.2014 to 18.03.2014.*
- b) Financial statement submitted to the Bank was different from the one submitted to Income Tax Department.*
- c) Overvaluation of stock, as per stock statement furnished by borrower to the Bank.”*

6. It is manifest that the respondent-Bank had declared petitioner No.1-firm as 'fraud' in the year 2017, which is mentioned in the FIR registered against petitioner No.2 and another partner as well as guarantors on 22.10.2018. Therefore, we are not satisfied with the explanation tendered by the counsel for the petitioners for the delay in approaching this Court. Thus, the instant petition is barred by delay and laches as it has been filed after about eight years of the declaration of of petitioner No.1-firm as 'fraud'. It is trite that although no period of limitation is provided for exercising writ jurisdiction, but it is incumbent upon the petitioners to approach this Court promptly for redressal of their grievance. Reference can be made to the

judgement of the Constitutional Bench of the Supreme Court in the case of **State of Madhya Pradesh vs. Bhailal Bhai & Ors.**, AIR 1964 SC 1006, wherein it has been held that a writ petition preferred after a period of three years would be hit by delay and laches.

7. Consequently, the petition stands dismissed. However, the petitioners would be at liberty to seek recourse to the alternative remedy in accordance with law.

8. It is also clarified that we have not expressed any opinion on the merits of the controversy.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

10.02.2025
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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No