

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****110****CWP-14663-2025 (O&M)****Date of decision :14.07.2025****Punjab Lighting Industries and others****... Petitioners****Versus****Punjab National Bank and another****...Respondents****CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Ms. Ridhi Bansal, Advocate and
Ms. Sidhi Bansal, Advocate for the petitioners.

Mr. C.S. Pasricha, Advocate for the respondent-Bank.

Anupinder Singh Grewal, J. (Oral)

This petition has been preferred by the petitioners to summon and quash the impugned show cause notice as well as the impugned orders vide which the petitioners have been arbitrarily, erroneously and illegally declared as wilful defaulter pursuant to RBI Master Circulars dated 01.07.2023 and 01.07.2015 on wilful defaulter (Annexures P-17 and P-18) respectively.

2. Learned counsel for the petitioners submits that the petitioners had been declared as wilful defaulter without issuance of notice or being afforded any opportunity of hearing. She further submits that the petitioners only recently learnt that they had been declared as wilful defaulter. She has drawn our attention to Para 27 of the petition in this regard.

3. Issue notice to the respondents.



4. Mr. C.S. Pasricha, Advocate has put in appearance and accepts notice on behalf of the respondent-Bank and submits that the petitioners had earlier preferred two writ petitions bearing CWP-18314-2024 and CWP-14968-2025 challenging the action of the respondents in declaring the petitioners as 'fraud'. He submits that while the petitioners had been declared as 'wilful defaulter' on 26.08.2022, they were declared as 'fraud' on 05.04.2024. Therefore, the present writ petition is barred by *res judicata* as the declaration of 'wilful defaulter' could have been impugned by the petitioner in the earlier writ petition(s). The petitioner should not be allowed to agitate the same in third writ petition.

5. Heard.

6. It is manifest that the petitioners had been declared as 'willful defaulter' on 26.08.2022 and as 'fraud' on 05.04.2024. The petitioners had earlier preferred CWP-18314-2024 whereby they had challenged their declaration as fraud. Relevant extract of the prayer in CWP-18314-2024 is reproduced hereunder:-

"i. Issue a writ in the nature of certiorari, calling for and quashing the impugned show cause notice, if any, impugned Fraud Monitoring Return/Report and all consequential proceedings arising therefrom, vide which Respondent no.2 and 3 has declared the Petitioners as fraud in terms of RBI Circular dated 01.07.2016 titled 'Master Directions on Frauds – Classification and Reporting by Commercial Banks and Select Financial Institutions' (Annexure P-17),' in complete violation of principles of natural justice and behind the back of petitioners;

ii. issue a writ in the nature of prohibition, restraining the Respondents from initiating or continuing with any measures/proceedings on the basis of impugned Fraud Monitoring Return/Report and if taken direct the same to be placed on record and quash the same;

iii. issue a writ in the nature of declaration, declaring illegal all actions taken by Respondent No.2 and 3 and consequently and specifically, direct that any instructions issued/information shared by the Respondents with external authorities/agencies, in pursuance to the circular dated 01.07.2016(Annexure



P.17)are a nullity and have no effect;

iv. issue a writ in the nature of certiorari, calling for the impugned Forensic Audit Report and other records and proceedings based on which the account of Petitioners have been declared as fraud and after going through the same, to quash and set aside the same;

xxx xxx”

7. This petition had been disposed of by this Court on 12.12.2024. The petitioners thereafter, had preferred another writ petition bearing CWP-14968-2025. The relevant extract of the prayer is reproduced hereunder:-

“It is therefore, most respectfully prayed that this Hon'ble Court may be pleased:

1. To call for records of the case and especially Auditors Report dated 14.11.2023, Show Cause Notice dated 23.02.2024 and the Letter/Order of the Respondent Bank dated 05.04.2024 declaring the account of the Petitioners as fraudulent; AND

2. To Issue a Writ in the nature of Certiorari for quashing the forensic auditors beport dated 14.11.2023, the Show Cause Notice dated 23.02.2024, and the Letter/Order of the Respondent Bank dated 05.04.2024 declaring the account of the Petitioners as fraudulent, all of which are not being supplied to the Petitioners by Respondent no. 2 - Bank despite repeated requests by email; AND/OR

3. To issue any other appropriate writ, order or direction which this Hon'ble Court may consider just and appropriate in the facts and circumstances of the present case; AND/OR

4. This Hon'ble Court may appoint an independent auditor to go into the financial affairs of the Petitioner company who should associate the Petitioners with a fact finding enquiry regarding the financial affairs of the Petitioner company; AND

5. All subsequent actions in pursuance to the declaration of the Petitioners account to be fraudulent, be declared illegal, null and void;

xxx xxx”

8. The second writ petition was dismissed as withdrawn vide order dated 22.05.2025, after this Court had observed that in the earlier petition preferred by the petitioners bearing CWP No.18314-2024, similar relief had been sought. Relevant extract of order dated 22.05.2025 is reproduced hereunder:-



“3. *After hearing learned counsel for the petitioners, we find that the petitioners had earlier preferred petition bearing CWP-18314-2024, wherein they had sought similar relief which was disposed of vide order dated 12.12.2024 (Annexure P-10).*

4. *At this stage, learned counsel for the petitioners submits that the earlier petition had been erroneously disposed of as a part of bunch of cases and the petitioners want to withdraw the instant petition with liberty to prefer an application seeking review of the order dated 12.12.2024 passed in the earlier petition.*

5. *Learned counsel for the respondent-Bank submits that he would be raising objections with regard to the maintainability of the review application, if any, at an appropriate stage.*

6. *The petition is dismissed as withdrawn with the aforesaid liberty.”*

9. The petitioners therefore, are before this Court in a third round of litigation and are now challenging their declaration as ‘willful defaulter’ on 26.08.2022.

10. We cannot accept the contention of the learned counsel for the petitioners that they did not have knowledge of being declared as wilful defaulters for the reason that, after having been declared as ‘wilful defaulter’, the petitioners were subsequently declared as ‘fraud’. Two writ petitions had been preferred by the petitioners challenging the action of the respondents in declaring the petitioners as ‘fraud’. It is difficult to believe that the petitioners did not have any knowledge about the fact that they had been declared as ‘wilful defaulter’ on 26.08.2022, especially when the petitioners appear to be well aware of their rights and had been approaching this Court repeatedly by preferring writ petitions.



11. In the instant petition, there is no specific averment as to when the petitioners had learnt about the order declaring them as ‘willful defaulter’. The relevant extract of Para 23 of the instant petition is reproduced hereunder.

“23. That however, in blatant ignorance of all the steps taken by the Petitioners to shield the interest of Respondent Bank, Petitioners came to know that their loan account has been declared as Wilful Defaulter on dated 26.08.2022 pursuant to RBI Master Circular on Wilful Defaulters dated 01.07.2013 and 01.07.2015 (Annexure P.17 and P.18 respectively) in a completely slip shod manner that too behind the back of the Petitioners. At the threshold, such conduct is clearly unwarranted and is in breach of the ingrained principles of natural justice because had the Petitioners been afforded with an opportunity to explain the correct factual position, they could have very well responded to the queries of the bank, before casting serious civil/penal consequences upon it by declaring them as wilful defaulters.”

12. Even in Para 27 of the petition which has been referred to by the counsel for the petitioners repeatedly, there is no averment as to any particular date or time when the petitioners had learnt about the order dated 26.08.2022 declaring them as ‘wilful defaulter’. The relevant extract of Para 27 is reproduced hereunder:-

“27. That to add to their plight, yet again, in perpetuation of this illegality, even the order of WDIC was never served upon the Petitioners thereby depriving them of an opportunity to prefer their representation before the review committee. Still further, the review committee instead of taking cognizance of the aforesaid illegalities, acted as a rubber stamp and merely endorsed the findings of the Committee for Identification of Wilful Defaulter without applying its mind. This blatant non application of mind gains significance in light of civil and penal ramifications flowing from the impugned declaration. On the strength of such wrongful declaration, the Respondent bank has published a list of willful



defaulters recently wherein the name of the Petitioners is shown as wilful defaulter, copy of which is annexed hereto as Annexure P.29.”

13. It is manifest that the petitioners have preferred this petition at a belated stage, and that too after having earlier filed two writ petitions on a similar cause of action. Every new discovery cannot lead to a fresh writ petition. It was open to the petitioners, at the time of challenging their declaration as ‘fraud.’ to also impugn the orders declaring them as ‘wilful defaulter,’ but instead the petitioners have once again approached this Court by preferring another writ petition. After the dismissal of the previous two writ petitions, the instant petition would be barred by the principle of *res judicata*. Reference may be made to the judgment of the Supreme Court in ***Forward Construction Co. and others Vs. Prabhat Mandal (Regd.), Andheri and others, (1986) 1 SCC 100***. Relevant extract of the same is reproduced below:-

“18. To start with, the Respondents 1 to 6 had taken a plea that the Municipal Commissioner had not obtained the approval of the Bombay Municipal Corporation under Rule 4(a)(i) of the Development Control Rules for change of user. The counsel for the BMC, however, informed the court that he had already sought the sanction of the Bombay Municipal Corporation and the proposal would soon come up before the Corporation for discussion and on that ground he sought an adjournment of the case to enable the Corporation to approve the said proposal. On 6-1-1983 the BMC by its resolution accorded sanction under Rule 4(a)(i) of the Development Control Rules for the change of present user of BEST bus depot to a combined user of BEST bus depot with commercial offices proposed by the Municipal Commissioner. The court thereafter allowed Respondents 1 to 6 to amend their writ petition as the plea taken by them had lost its force after the sanction.

19. The second question for consideration is whether the present writ petition is barred by res judicata. This plea has been negated by the High Court for two reasons: (1) that in the earlier writ petition the validity of the permission granted under Rule 4(a)(i) of the Development Control Rules was not in issue; and (2) that the earlier writ petition filed by Shri Thakkar was not a bona fide



one inasmuch as he was put up by some disgruntled builder, namely, M/s Western Builders.

20. So far as the first reason is concerned, the High Court in our opinion was not right in holding that the earlier judgment would not operate as res judicata as one of the grounds taken in the present petition was conspicuous by its absence in the earlier petition. Explanation IV to Section 11 CPC provides that any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit. An adjudication is conclusive and final not only as to the actual matter determined but as to every other matter which the parties might and ought to have litigated and have had it decided as incidental to or essentially connected with the subject-matter of the litigation and every matter coming within the legitimate purview of the original action both in respect of the matters of claim or defence. The principle underlying Explanation IV is that where the parties have had an opportunity of controverting a matter that should be taken to be the same thing as if the matter had been actually controverted and decided. It is true that where a matter has been constructively in issue it cannot be said to have been actually heard and decided. It could only be deemed to have been heard and decided. The first reason, therefore, has absolutely no force.”

14. Therefore, this petition, being devoid of any merit stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

14.07.2025
Sapna

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No