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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 7805/2023, CM APPL. 30132/2023 & CM APPL. 30134/2023

SANDEEP GUPTA (FORMER MANAGING DIRECTOR OF GUPTA EXIM INDIA PVT. LTD.) .....Petitioner

Through: Mr. Aditya Wadhwa and Ms. Tanvi Jain, Advs.

versus

PUNJAB NATIONAL BANK .....Respondent

Through: Mr. S.K. Sharma and Mr. Kailash Sharma, Advs.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

O R D E R

% **26.08.2025**

1. The present petition has been filed seeking quashing of classification dated 12.02.2019 whereby the account of petitioner was classified as 'fraud'.

2. Mr. Aditya Wadhwa, learned counsel appearing on behalf of petitioner submits that the only ground which has been articulated in the present petition is that petitioner's account has been classified as 'fraud' without issuance of show cause notice and without affording any personal hearing to petitioner.

3. He has placed reliance on the decision of Hon'ble Supreme Court in ***State Bank of India vs. Rajesh Aggarawal, (2023) 6 SCC 1.*** He further relies upon the decision of the Division Bench of this Court in ***IDBI Bank Limited vs. Gaurav Goel & Ors., 2025 SCC OnLine Del 935.***

4. On a specific query posed by the Court to Mr. S.K. Sharma, learned counsel appearing on behalf of respondent/bank as to whether the hearing was afforded to petitioner, he submits that as per the Master Circular which was in vogue at the time of passing of the order, there was no requirement of affording personal hearing.

5. However, he fairly concedes that in the decision of Hon'ble Supreme Court in ***Rajesh Aggarawal*** (supra), the Apex Court has held that requirement of affording personal hearing has to be read into the Master Circular dated 01.07.2016.

6. It is also apposite to refer to the following observations of Hon'ble Supreme Court in ***Rajesh Aggarawal*** (supra) which shows that granting of personal hearing is mandatory:

> *"55. Classification of the borrower's account as fraud under the Master Directions on Frauds virtually leads to a credit freeze for the borrower, who is debarred from raising finance from financial markets and capital markets. The bar from raising finances could be fatal for the borrower leading to its "civil death" in addition to the infraction of their rights under Article 19(1)(g) of the Constitution.* ***Since debarring disentitles a person or entity from exercising their rights and/or privileges, it is elementary that the principles of natural justice should be made applicable and the person against whom an action of debarment is sought should be given an opportunity of being heard.***
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> *xxx xxx xxx*
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> *67. The Master Directions on Frauds do not expressly exclude a right of hearing to the borrowers before action to class their account as frauds is initiated.* ***The principles of natural justice can be read into a statute or a notification where it is silent on granting an opportunity of a hearing to a party whose rights and interests are likely to be affected by the orders that may be passed.***

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E. Conclusion

98. The conclusions are summarised below:

98.1. No opportunity of being heard is required before an FIR is lodged and registered.

98.2. Classification of an account as fraud not only results in reporting the crime to the investigating agencies, but also has other penal and civil consequences against the borrowers.

98.3. Debarring the borrowers from accessing institutional finance under Clause 8.12.1 of the Master Directions on Frauds results in serious civil consequences for the borrower.

98.4. Such a debarment under Clause 8.12.1 of the Master Directions on Frauds is akin to blacklisting the borrowers for being untrustworthy and unworthy of credit by banks. This Court has consistently held that an opportunity of hearing ought to be provided before a person is blacklisted.

98.5. The application of audi alteram partem cannot be impliedly excluded under the Master Directions on Frauds. In view of the time-frame contemplated under the Master Directions on Frauds as well as the nature of the procedure adopted, it is reasonably practicable for the lender banks to provide an opportunity of a hearing to the borrowers before classifying their account as fraud.

98.6. The principles of natural justice demand that the borrowers must be served a notice, given an opportunity to explain the conclusions of the forensic audit report, and be allowed to represent by the banks/JLF before their account is classified as fraud under the Master Directions on Frauds. In addition, the decision classifying the borrower's account as fraudulent must be made by a reasoned order.

98.7. Since the Master Directions on Frauds do not expressly provide an opportunity of hearing to the borrowers before classifying their account as fraud, audi alteram partem has to be read into the provisions of the directions to save them from the vice of arbitrariness.

99. In the result, the judgment of the Division Bench of the High Court of Telangana dated 10-12-2020 [Rajesh Agarwal v. RBI, 2020 SCC OnLine TS 2021] is upheld*. The judgments of the High Court of Telangana dated 22-12-2021 [Shree Saraiwwalaa Agrr Refineries Ltd. v. Union of India, 2021 SCC OnLine TS 1816] and 31-12-2021 [Yashdeep Sharma v. RBI, 2021 SCC OnLine TS 1852] , and of the High Court of Gujarat dated 23-12-2021 [Mona Jignesh Acharya v. Bank of India, 2021 SCC OnLine Guj 2811] are accordingly set aside. The civil appeals are disposed of. Writ Petition (C) No. 138 of 2022 is also disposed of in the above terms. There shall be no order as to costs.*

100. Pending application(s), if any, shall stand disposed of."

(emphasis supplied)

7. Likewise, the Division Bench of this Court in ***Gaurav Goel*** (supra) has also clarified that the expression 'hearing' used by the Hon'ble Supreme Court in the operative part of the decision in ***Rajesh Aggarwal*** (supra) means 'personal hearing'. The relevant excerpts from the decision read thus:

*"**19. Since, in paragraph 99, the Hon'ble Supreme Court has upheld the said decision of the Hon'ble High Court of Telangana (2020 SCC OnLine TS 2021), in our considered opinion, reading the conclusion in Rajesh Agarwal, (supra), as can be found in paragraph 98.4, to mean that in proceedings under the RBI Directions, opportunity of hearing would not include opportunity of personal hearing, is untenable. Once, the Hon'ble Supreme Court upheld the judgment of the Hon'ble High Court of Telangana which clearly had directed for providing an opportunity of personal hearing as well, to conclude that opportunity of hearing would not include opportunity of personal hearing, in our opinion, will be erroneous.***

20. The submission made by learned counsel representing the appellant that the proceedings consequent upon the *show cause notice under the RBI Directions are administrative proceedings as such the process of fair hearing will not be at the standard of a judicial proceeding, in our considered opinion, does not have any bearing to the instant case for the reason that the Hon'ble Supreme Court in* ***Rajesh Agarwal, (supra)*** *has clearly reiterated the well-known principle of law that even in administrative action, the principles of audi alteram partem are to be observed.* ***The extent of application of the principle of audi alteram partem in the proceedings drawn under the RBI Directions has already been explained by the Hon'ble Supreme Court in Rajesh Agarwal, (supra) which has upheld the directions issued by the Hon'ble High Court of Telangana where one of the directions issued was for providing opportunity of personal hearing as well.***

21. It is trite in law that there is no straight jacketed formula to ensure observance of principles of justice for the reason that the extent and width of application of this principle depends on the nature of proceedings and the provisions under which such proceedings are drawn as also on the consequences which such proceedings entail.

22. However, once the Hon'ble Supreme Court in Rajesh Agarwal, (supra) has clearly upheld the directions issued by the Hon'ble High Court of Telangana (2020 SCC OnLine TS 2021) regarding providing opportunity of personal hearing in the proceedings drawn under the RBI Directions, it is not open to this Court to read the application of principle of audi alteram partem in any other manner.*"*

(emphasis supplied)

8. In the present case, neither show cause notice was served nor personal hearing was afforded to petitioner.

9. In view of the above, this Court is of the opinion that the decision of respondent/bank to classify the account of petitioner as 'fraud' is not legally

sustainable as there is complete non-compliance of principles of natural justice. Accordingly the said decision is quashed and set aside.

10. The respondent/bank is, however, at liberty to initiate proceedings afresh against petitioner in accordance with law.

11. The petition along with pending applications is disposed of in the aforesaid terms.

VIKAS MAHAJAN, J

AUGUST 26, 2025

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