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

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Judgment Delivered on: 11.08.2025

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W.P.(C) 5876/2024 & CM APPL. 24268/2024

JAGJIV KUMAR ARORA & ANR.Petitioners

Through: Mr. Sameer Rohatgi and Ms. Astha
Gumber, Advs.

versus

PUNJAB NATIONAL BANK & ANR.Respondents

Through: Mr. Hashmat Nabi, Adv. for R-
1/PNB.**CORAM:****HON'BLE MR. JUSTICE VIKAS MAHAJAN****JUDGMENT****VIKAS MAHAJAN, J (ORAL)**

1. The present petition has been filed assailing the impugned letter/decision dated 16.04.2024 of the respondent no.1 bank whereby the account of M/s Supreme Alloys Limited and the petitioners, have been classified as 'fraud'.

2. Mr. Sameer Rohatgi, learned counsel for the petitioner submits that – (i) the impugned order is cryptic, inasmuch as, no reasons have been furnished in the said order; (ii) along with the show cause notice, no documents relevant to the controversy, including the Forensic Audit Report, were furnished to the petitioners; and (iii) the personal hearing has not been afforded to the petitioner before passing the impugned order.

3. To elaborate on his submissions, Mr. Rohatgi has invited attention of the Court to the show cause notice dated 21.11.2023, to contend that the said show cause notice does not mention any annexures thereto, which have been



furnished to the petitioner. He further submits that the show cause notice was responded to by the petitioners *vide* detailed reply dated 05.12.2023, however, none of the contentions raised by the petitioners in the said reply have been considered in the impugned order dated 16.04.2024. Furthermore, from the impugned order itself it becomes apparent that no personal hearing was afforded to the petitioner, in as much as no reference to any such personal hearing has been made therein.

4. He, therefore, contends that the impugned order is bad in law, and liable to be quashed and set aside. In support of his contentions Mr. Rohatgi has placed reliance on the following decisions - (i) ***SBI and Ors. v. Rajesh Aggarwal and Ors., (2023) 6 SCC 1***; (ii) ***IDBI Bank Ltd vs. Gaurav Goel & Ors., 2025 SCC OnLine Del 935***; and (iii) ***Apple Commodities Limited vs. Punjab National Bank; 2025 SCC OnLine Del 345***.

5. *Per contra*, Mr. Hashmat Nabi invites attention of the Court to the order dated 06.05.2024 passed by the Division Bench of this Court in LPA 359/2024 in the earlier round of litigation, in which the petitioners had challenged the order dated 29.04.2024 passed by this Court in WP(C) No. 5876/2024, wherein interim stay was not granted to the petitioners. Referring to the said order, Mr. Nabi submits that there is *prima facie* finding recorded that the principles of natural justice have been complied with.

6. He contends that the present petition has been rendered infructuous, in as much as the FIR has been registered and the investigation is ongoing. He submits that the administrative and criminal actions are independent of each other, and irrespective of the outcome in the present petition, the criminal proceedings will have to go on.



7. Having heard Mr. Sameer Rohatgi, learned counsel for the petitioners, as well as, Mr. Hashmat Nabi, learned counsel for the respondent no.1 bank, it needs to be noted that earlier also petitioner's account was classified as fraud and the same was assailed by the petitioner by filing W.P.(C) 9446/2019 *inter alia* on the ground that personal hearing was not afforded to the petitioners. The said writ petition was allowed by the Division Bench of this Court *vide* judgment dated 25.04.2023 whereby the order impugned therein was set aside with liberty to the respondent bank to proceed ahead in accordance with law and in light of the judgment of the Hon'ble Supreme Court in **Rajesh Aggarwal** (supra).

8. Subsequent thereto, the petitioners issued show cause notice dated 21.11.2023 calling upon the petitioners to show cause as to why their accounts should not be classified as fraud. A perusal of the show cause notice, however, reveals that along with the show cause notice, no documents including the report of investigation mentioned therein, were furnished to the petitioner.

9. The petitioners filed a detailed reply dated 05.12.2023 to the show cause notice, however, while passing the impugned order dated 16.04.2024 none of the contentions raised by the petitioner in its detailed reply have been considered. The impugned order by which the account of the petitioner has been classified as fraud is reproduced below *in extenso*:

***“Ref: Our Show Cause Notice (SCN) dated 21.11.2023
Re: Your response vide letter no Nil dated 05.12.2023***

We have taken cognizance of your response to our Show Cause Notice and after due examination of the same it is concluded that sufficient reasons have not been provided by you to explain the irregularities observed in the conduct of your account to the



satisfaction of the Bank.

2. Accordingly, Bank has decided to classify your loan account as 'Fraud' for the following reasons:

- *Cheating and Forgery*
- *Loan was availed on the basis of invalid Assignment Agreement/POA in respect of Ips*
- *Funds transferred to allied firms and payment to such companies which are not engaged in the line of business.*

The Bank shall be taking further course of action to report the account/ your name to the Reserve Bank of India (RBI) as per the directions contained in the RBI Master Directions/ Circulars issued time to time, in this regard."

10. From the perusal of above quoted impugned order, it is not possible decipher as to what is the nature of cheating and forgery committed, nor it can be ascertained in what manner the Assignment Agreement/POA were in invalid. It has also not been elaborated how much funds were transferred, and to which allied firms and companies, who are allegedly not engaged in the same line of business. Clearly, the reasons given in the impugned order lack clarity and are cryptic. Thus, the impugned order does not demonstrate adequate reasoning for classifying the account of the petitioner as fraud.

11. At this stage, it is apposite to refer to the decision in ***Apple Commodities*** (supra), wherein a Coordinate Bench of this Court under somewhat similar circumstances, had observed as under:

"3. Quite obviously, the bank does not seem to have given any "independent and specific reason" as to why it has taken the above said decision to classify the loan account as 'fraud'. Of course, findings of the investigation conducted by the bank were made part of the Show Cause Notice and the bank while declaring the account as 'fraud', most probably, would have swayed away by the same,



fact remains that the order in question does not make it amply specific and clear.

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6. Whenever any decision is made by any administrative body or financial institution, it is imperative that such decision contains the reasoning. Such requirement is not a mere procedural formality; it rather stems from the fundamental need to prevent arbitrariness and to ensure accountability. Thus, for the sake of clarity, fairness and transparency, every decision, particularly those affecting vital rights and interests, must be supported by adequate reasoning that demonstrates the application of sound judgment, in line with recognized legal standards.

7. This Court is also cognizant of the specific directions contained in *State Bank of India v. Rajesh Agarwal*, 2023 SCC OnLine SC 352 wherein also it has been held that any such order has to be a reasoned one.

8. In the present case, the expression used in the impugned order lacks clarity. It is crucial to emphasize that the order in question expressly records that when the show cause notice was issued, the bank had perceived the account/s as fraud. However, at the time of final consideration, there should have been some discussion, elaboration and substantiation. The lack of which clearly demonstrates that the order fails to provide adequate reasoning for the classification of the account of petitioner as fraud.

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10. The impugned order is, accordingly, set aside.”

(emphasis supplied)

12. Further, on a pointed query posed by this Court to Mr. Nabi as to whether any documents have been furnished by the bank along with show cause notice, Mr. Nabi has not been able to show any report of investigation, on which the show cause notice is predicated, or any other documents which are relevant to the controversy, were ever given to the petitioners.

13. Needless to say, furnishing of documents which are relevant to the controversy are mandatory. Reference in this regard may be had to the



decision of the Hon'ble Supreme Court in *T. Takano vs. Securities and Exchange Board of India and Another*, (2022) 8 SCC 162 wherein it was held that not only the documents which have been relied upon in the show cause notice, but all other material which is relevant for adjudication, need to be supplied to the person against whom the proceedings are contemplated. The relevant paragraphs of the said decision read thus:

“29. The purpose of disclosure of information is not merely individualistic, that is to prevent errors in the verdict but is also towards fulfilling the larger institutional purpose of fair trial and transparency. Since the purpose of disclosure of information targets both the outcome (reliability) and the process (fair trial and transparency), it would be insufficient if only the material relied on is disclosed. Such a rule of disclosure, only holds nexus to the outcome and not the process. Therefore, as a default rule, all relevant material must be disclosed.

30. It would be fundamentally contrary to the principles of natural justice if the relevant part of the investigation report which pertains to the appellant is not disclosed. The appellant has to be given a reasonable opportunity of hearing. The requirement of a reasonable opportunity would postulate that such material which has been and has to be taken into account under Regulation 10 must be disclosed to the noticee. If the report of the investigating authority under Regulation 9 has to be considered by the Board before satisfaction is arrived at on a possible violation of the regulations, the principles of natural justice require due disclosure of the report.

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50. The following principles emerge from the above discussion:

50.1. A quasi-judicial authority has a duty to disclose the material that has been relied upon at the stage of adjudication.

50.2. An ipse dixit of the authority that it has not relied on certain material would not exempt it of its liability to disclose such material if it is relevant to and has a nexus to the action that is taken by the authority. In all reasonable probability,



such material would have influenced the decision reached by the authority.

50.3. Thus, the actual test is whether the material that is required to be disclosed is relevant for purpose of adjudication. If it is, then the principles of natural justice require its due disclosure.”

(emphasis supplied)

14. Likewise, reference can also advantageously be made to the decision of the Bombay High Court in ***Milind Patel v. Union Bank of India and Others***, 2024 SCC OnLine Bom 745 wherein referring to the decision in ***T. Takano*** (*supra*) it was observed that fair and transparent symmetrical access to information would mean providing access to not only incriminating material but also exculpatory material, since all such information would be relevant for arriving at the truth. Therefore, access to the record is a vital element of complying with principles of natural justice. Relevant paragraphs from the said decision read thus:

“25. A plain reading of Takano [T. Takano v. Securities and Exchange Board of India, (2022) 232 Comp Cas 136 (SC); (2022) 8 SCC 162; (2022) 3 SCC (Cri) 306; (2022) 4 SCC (Civ) 248.] would throw light on how the Master Circular must be construed. The Master Circular consciously enables inflicting “penal” consequences, and underlines the “imperative” need to adhere to a “transparent mechanism”. The avoidance of information asymmetry and the means of ensuring transparency as outlined by the hon'ble Supreme Court in Takano [T. Takano v. Securities and Exchange Board of India, (2022) 8 SCC 162] would necessarily mean that principles of natural justice, including the need to provide the underlying material, are inherent and implicit in the process stipulated under the Master Circular. The material and information in question for disclosure to the noticee would be all “relevant” material and not just information that is “relied upon” or “referred to” in the show-cause notice.



26. Not only must information that is referred to and relied on in the show-cause notice be supplied but also information that may undermine the allegations contained in the show-cause notice (which may therefore not be referred to or relied on) must be supplied only to ensure that everything relevant to arrive at the truth is available to both parties. The objective of the proceedings initiated by issuance of a show-cause notice is not to somehow find the noticee guilty of wilful default on the same terms as alleged. Instead, the objective is to arrive at the truth as to whether or not an individual in question is to be subjected to “penal” (in the Reserve Bank of India's words) consequences.

Therefore, if the bank has conducted a forensic investigation into alleged diversion and siphoning off of funds, and specific roles played by specific individuals is brought out in the investigation, and such a probe would point to plausible interpretation that certain individuals did not play any role in the diversion and siphoning, the material underlying such plausible inference would undermine the allegations. **Therefore, fair and transparent symmetrical access to information, as stipulated by the hon'ble Supreme Court in Takano would mean providing access to not only incriminating material but also exculpatory material, since all such information would be relevant for arriving at the truth. Therefore, access to the record is a vital element of complying with principles of natural justice.** In the instant case, not only has no material been supplied, but also Union Bank has actually asserted on oath that it was not required to provide any material whatsoever, and that it is for the noticee to prove his innocence.”

(emphasis supplied)

14. This Court also find merit in the submission of Mr. Rohatgi that no personal hearing has been afforded to the petitioners before passing impugned order, inasmuch as the impugned order does not refer to any personal hearing having been granted to the petitioner. Further, on being queried by this Court as to whether any personal hearing was afforded, Mr. Nabi fairly concedes that no such personal hearing was granted to the petitioner.



15. It is apposite to observe that granting of personal hearing is mandatory before a decision is taken to classify the account as fraud. Reference in this regard may be had to the decision of the Hon'ble Supreme Court in **Rajesh Aggarwal** (supra) wherein it was observed as under:

*“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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*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 Agrar 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)

16. The Hon'ble Division Bench of this Court in **Gaurav Goel** (supra) has also clarified that the expression hearing used in **Rajesh Aggarwal** (supra) means personal hearing, the relevant paragraphs from **Gaurav Goel** (supra)



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)

17. On an overall conspectus of facts, and the position of law adverted hereinabove, this Court is of the considered view that the impugned order dated 16.04.2024 cannot be sustained.

18. Accordingly, the petition is allowed and the impugned order dated 16.04.2024, whereby the petitioners have been classified as fraud, is set aside and the parties are relegated to the stage of show cause notice. The respondent no.1/bank is at liberty to pass fresh order keeping in view the observations made hereinabove.

19. The petition, alongwith pending application, is disposed of in the above terms.

VIKAS MAHAJAN, J

AUGUST 11, 2025/dss