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

\+ W.P.(C) 15057/2004 & CM APPLs. 10771/2004, 14241/2004, 167/2005, 1783/2005, 12708/2005

RESERVE BANK OF INDIA .....Petitioner

Through: Mr. Ramesh Babu, Ms. Manisha Singh & Ms. Tanya Chowdhary, Advocates.

versus

THE APP. AUTHORITY NBFC REGIST. .....Respondent

Through: Mr. Sachin Chopra, Ms. Astha Gupta & Ms. Aakriti Jain, Advocates for R-3/DCM Financial Services Limited.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

<u>O R D E R</u>

% 09.12.2025

1. The Reserve Bank of India ["RBI"] has filed this petition under Article 226 of the Constitution, against an order dated 21.05.2004, passed by the Appellate Authority for Non-Banking Financial Company ["NBFC"] Registration, Government of India.

2. Respondent No. 3 – DCM Financial Services Limited ["the company"] applied for a certificate of registration as required under Section 45-IA of the Reserve Bank of India Act, 1934 ["the RBI Act"]. The RBI, by an order dated 05.03.2004, rejected the application on the ground that the company had failed to fulfil the statutory eligibility conditions mentioned in Section 45-IA(4) of the RBI Act. The rejection order was challenged by the company before the Appellate Authority under Section 45-IA(7) of the RBI Act. In the appeal, the Appellate

Authority passed the impugned order dated 21.05.2004.

3. The Appellate Authority noted the submission of the company that it had filed a scheme under Section 391 of the Companies Act, 1956, before this Court, which the Court had not approved. An appeal from the order rejecting the scheme had also failed, but a review petition was pending before this Court. The company also stated that it was in the process of submitting a fresh scheme for consideration under Section 391 of the Companies Act, 1956.

4. After noting the submission of the RBI that the statutory conditions of Section 45-IA(4) of the Act had not been complied with, the Appellate Authority directed as follows:

> "*7. After carefully going through the relevant records and hearing arguments given by both the sides, the Appellate Authority directs the RBI to keep its rejection order dated 5th March, 2004 in abeyance for a period of six months during which the Company shall file the revised scheme for restructuring before appropriate authority or till the disposal of the Company's review petition by the Delhi High Court*."

5. The impugned order was stayed, by an order dated 15.09.2004, in this writ petition. That order has held the field for the last 21 years. Meanwhile, a revised restructuring scheme also remains pending for consideration.

6. Having regard to the fact that the company's application for registration was made as far back as in 1997 and rejected in 2004, the Court recorded the following order on 01.12.2025:

> "*1. Mr. Ramesh Babu, learned Standing Counsel for the petitioner-Reserve Bank of India ["RBI"], submits that this writ petition has been filed by the petitioner-RBI against a decision of the Appellate Authority dated 21.05.2004, by which the order of the RBI dated 05.03.2004 rejecting the application of respondent No.3 for registration as an*

NBFC was directed to be kept in abeyance for a period of six months, so that the respondent No.3 could submit a revised restructuring scheme.

2. The impugned order of the Appellate Authority was stayed by this Court on 15.09.2004.

3. In view of the lapse of time since then and in view of the proceedings before the Company Court, Mr. Ramesh Babu suggests that the order dated 15.09.2004 may be made absolute reserving the right of the Company to apply afresh in accordance with law in future, if otherwise permissible.

4. Learned counsel for the respondent will address on this aspect on the next date of hearing.

5. List on 09.12.2025."

7. Mr. Sachin Chopra, learned counsel for the company, submits that he has not yet been able to obtain final instructions.

8. I am nevertheless of the view that no further adjudication is required in this writ petition. If at all the restructuring proposal succeeds, the company will be at liberty to make a fresh application for registration, in accordance with prevalent legal regime.

9. It may also be noted that the impugned order of the Appellate Authority contains no reasoning for the direction that the rejection order be kept in abeyance. The rejection by the RBI was on the ground of non-compliance with the statutory provisions. The Appellate Authority has not recorded any finding contrary to the findings of the RBI, noting in the impugned order, as follows:

"*4. RBI submitted statement of facts before the Appellate Authority stating that the company s Certificate of Registration was rejected because the company did not have required NOF. The company was subjected to special audit by M/s G.S. Mathur & Company, Chartered Accountant with reference to its financial position as on 31.3.1997 which disclosed negative NOF, negative CRAR. In September 1997, its credit rating was down graded to the 'Default Category' by CARE. The company was issued prohibitory order on January 12, 1998 prohibiting it from acceptance of deposits and alienation of assets. The company defaulted in repayment of* *deposits and the northern bench of Company Law Board issued order dated 17.7.1998 for repayment of deposits, which it could not comply. The company requested Company Law Board on 21.10.1999 for rescheduling repayment of its liabilities. In the meantime, the company also submitted an application to the Delhi High Court under Section 391 of the Companies Act, 1956 seeking the court's approval for restructuring scheme involving secured and unsecured creditors. In the circumstances, company Law Board asked the company, vide its order dated 26.5.2000, to approach it after knowing the outcome of its applications under Section 391 of the Companies Act, 1956. The Company's restructuring scheme ibid, was rejected by the Delhi High Court on December 20, 2001. The company went on an appeal to the Division Bench against the above judgment. The appeal was also dismissed by the Division Bench by its order dated 25.4.2003. The company again filed a review petition with the Delhi High Court which yet to be admitted.*

5. An inspection of the books of accounts of the company was conducted between August and September, 2003 with reference to its financial position as on 31.3.2002. Major finds of the inspection were as under:-

- *The assessed Net Owned Fund was negative at Rs. 156.81 crore.*
- *The assessed CRAR was negative at 708.8%*
- *The entire public deposit liability (with interest accrued thereon) of Rs. 69.45 crores was overdue for repayment.*
- *The company has not maintained any SLR since June 30, 1990.*
- *The realizable value of the company's assets as on date of the inspection, after making provisions for losses and depreciation, was assessed at Rs. 69.02 crore which was less than its outside liabilities at Rs. 129.78 crores.*
- *Liquidity ratio at 0.07 was not comfortable.*
- *Gross NPAs of Rs. 56.09 crore formed 66.53% of its total assessed*
- *Adjusted net loss was Rs. 100.24 crore for the year ended 31. 3.2002.*

Based on the inspection findings the company was issued a show cause notice dated 30.12.2003.. The company's reply dated 24.1.2004 to the Show Cause Notice was not found satisfactory by RBI as it did not contain any concrete action plan for repayment of deposits.

6. Considering all the relevant facts and taking into consideration the failure of the company to comply with the statutory provisions laid down in the Act, and the directions issued there under, the company has failed to fulfill the statutory eligibility conditions contained in sub-section (4) of section 45IA of the Act, *RBI therefore, rejected the company's applications for certificate of registration.*"

Without addressing these issues at all, the Appellate Authority has kept the rejection order in abeyance.

10. Having regard to these circumstances, the impugned order of the Appellate Authority dated 21.05.2004, is set aside.

11. However, the present order will not prejudice the company from making a fresh application for registration in the future, if otherwise permissible.

12. The writ petition, alongwith pending applications, is disposed of with the aforesaid directions.

PRATEEK JALAN, J

DECEMBER 9, 2025
'pv/KA'/