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

\+ W.P.(C) 10444/2025 & CM APPL. 43367/2025

SH. LAGADAPATI MADHUSUDHAN RAO & ORS......Petitioners

Through: Mr. Saurabh Kirpal, Sr. Adv. with Mr. Malak Bhatt, Ms. Neeha Nagpal and Ms. Nitya Prabhakar, Advs.

versus

PUNJAB NATIONAL BANK .....Respondent

Through: Mr. Sanjay Kumar Rout, SC for PNB with Ms. Dharna Veragi and Mr. Aditya Jha, Advs.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

% **22.07.2025**

CM APPL. 43368/2025 (exemption) & CM APPL. 43369/2025 (exemption)

1. Allowed, subject to all just exceptions.

2. Applications stand disposed of.

W.P.(C) 10444/2025

3. The present petition has been filed seeking following relief:

A. Pass a Writ, Order or Direction in the nature of Mandamus or any other appropriate Writ, Order or Direction quashing and setting aside the Impugned Notice of Personal Hearing dated 20.05.2025 bearing Ref. No. FRMD/PH/LIL/GURUGRAM issued by the Respondent Bank pursuant to the Show Cause Notice dated 21.11.2023;

B. Direct the Respondent Bank to strictly comply with the directions contained in the judgment dated 22.05.2024 passed by this Hon'ble Court in W.P. (C) No. 928/2024, including providing the Petitioners with full and effective inspection of all documents relied upon for issuing the impugned Show Cause Notice and supply of relevant documents as requested; and

4. Mr. Saurabh Kirpal, learned Senior Counsel for the petitioners submits that the challenge to the personal hearing notice dated 20.05.2025 issued pursuant to the show cause notice dated 21.11.2023, is essentially on the ground of non-compliance of principles of natural justice.

5. Elaborating on his submission, he submits that on an earlier occasion, the petitioners had filed a petition bearing no. W.P. (C) 928/2024 *inter alia* challenging the show cause notice dated 21.11.2023 issued by the respondent/PNB *inter alia* on the ground that the relevant documents have not been supplied by the said bank to the petitioners.

6. He submits that this Court after considering the submission of the petitioners had passed an order dated 22.05.2024 in W.P. (C) 928/2024 giving following directions:

> *"11. Accordingly, the following directions are issued:*
>
> *(i) The petitioners and/or their authorized representative, shall be allowed inspection of the records of the company, as available with the respondent-banks, on the basis of which, the SCNs were issued to the petitioners.*
>
> *(ii) Since, record of the company is also stated to be in the possession of the liquidator, it is directed that the petitioners and/or his authorized representative, shall also be allowed to inspect the record of the company, as available with the liquidator.*
>
> *(iii) Upon inspection of the record, as made available by the respondent-banks and the liquidator, the petitioners shall state the specific documents, that are required from the said record. The same shall be provided to the petitioners, thereafter.*
>
> *(iv) The cost of providing copies of the relevant documents to the petitioners, shall be borne by the petitioners.*
>
> *(v) The aforesaid process of inspection of the record of the company and stating the specific documents, shall be completed by the petitioners, within a period of ten days. The process of*

providing the relevant documents to the petitioners, shall be completed by the respondent-banks and the liquidator, within a period of ten days, thereafter.

(vi) Upon receipt of the documents, the petitioners shall file reply to the SCNs, within a period of two weeks, thereafter.

(vii) The petitioners are at liberty to make request for personal hearing to the respondent-banks, which shall be considered, accordingly."

7. He submits that after the supply of documents, the petitioners had been granted liberty by the Court to file reply to the show cause notice [SCN]. He submits that though the petitioners had earlier responded to the show cause notice *vide* its reply dated 19.12.2023, however, the same was not on the merits of the case since the documents by that time had not been made available to the petitioners, and the detailed reply could have been filed by the petitioners only upon furnishing of the relevant documents.

8. He also draws attention of the Court to the letter dated 14.06.2024 written by the petitioners to the Circle Sastra Head, PNB requesting therein to supply the documents enumerated in Annexure to the said letter. He submits that the respondent bank without providing the said documents have issued a notice dated 20.05.2025 fixing the personal hearing on 29.05.2025 which was later re-scheduled on 22.07.2025 i.e. today.

9. He submits that the bank is obliged not only to supply the documents which find reference in SCN or on which SCN has been premised, but also all the relevant documents. For this proposition Mr. Kirpal places reliance on the decision of the Hon'ble Supreme Court in ***T. Takano v. Security and Exchange Board of India and Another, (2022) 8 SCC 162***, more particularly Para 29 and 30 thereof, which reads 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."

(emphasis supplied)

10. He also places reliance on the decision of Division Bench of the High Court of Bombay in ***Milind Patel v. Union Bank of India and Others, 2024 SCC OnLine Bom 745***, wherein relying upon ***T. Takano*** (supra) it was observed by the Bombay High Court 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. Relevant paragraphs from the said decision reads 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)

11. In sum and substance, submission of Mr. Kirpal is that there is non-compliance of principles of natural justice.

12. Mr. Sanjay Kumar Rout, learned Standing Counsel for respondent/PNB on the other hand, submits that all the relevant documents on the basis of which show cause notice has been issued to the petitioners have been supplied.

13. On a pointed query posed by the Court to Mr. Rout as to which are the documents that have been supplied to the petitioners, he is not in a position to point out the same. However, Mr. Rout suggests that the petitioners can appear before the concerned authority of the Bank and give the details of the documents which are required by them. Mr. Rout, learned Standing counsel appearing on behalf of respondent/PNB, on instructions, submits that the petitioners will be communicated about the date on which they are expected to appear before the concerned authority of the Bank for the aforesaid purpose.

14. Having regard to the rival submissions of the learned counsel for the parties and the law laid down by Hon’ble Supreme Court in ***T. Takano*** (supra), as well as, ***Milind Patel*** (supra), the present petition is disposed of with a direction that the petitioners will appear before the concerned authority of the respondent/PNB on a date to be intimated to the petitioner by the respondent/PNB, and will furnish the list of relevant documents required by them. The said authority will examine the relevancy of those documents and will pass a speaking order in respect thereof.

15. In case it is decided that any documents are relevant and need to be

provided to petitioners, same shall be provided by the respondent/PNB within one week thereafter against acknowledgement in writing. Thereafter, the petitioners shall be at liberty to file reply to show cause notice within two weeks from date of receipt of relevant documents. However, in case the respondent/PNB decides that none of the documents sought by the petitioner are relevant, then reply be filed by petitioner within two weeks from date of communication of such decision.

16. After receipt of reply to show cause notice, Fraud Examination Committee may fix a date for personal hearing, giving at least two weeks' clear time to petitioners.

17. The petition alongwith pending applications, is disposed of in the above terms.

VIKAS MAHAJAN, J

JULY 22, 2025/dss