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

\+ W.P.(C) 10650/2025

PRABHAT KUMAR SHRIVASTAVA .....Petitioner

Through: Ms. Shruti Kanodia, Ms. Ishita Jain and Mr. Kshitij Ujala, Advs.

versus

RESERVE BANK OF INDIA AND ORS .....Respondents

Through: Ms. Tanya Chowdhary, Ms. Manisha Singh and Ms. Jagriti Bharti, Advs. for R-1/RBI.
Mr. Anand Varma and Ms. Apoorva Pandey, Advs. for R-2 & R-3.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

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

% 24.07.2025

<u>CM APPL. 44066/2025 (exemption)</u>

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

<u>W.P.(C) 10650/2025 & CM APPL. 44065/2025 (stay)</u>

3. The present petition has been filed *inter alia* seeking quashing and setting aside of show cause notice [hereinafter 'SCN'] dated 24.12.2024 issued by the respondent no.2 bank / IDBI and the proceedings emanating therefrom including the letters dated 23.06.2025 and 14.07.2025.

4. The case set out in present petition is that IDBI Bank had issued common show cause notice dated 24.12.2024 to fifteen persons including the petitioner.

5. The petitioner had joined M/s Isolux Corsan India Engineering and Construction Private Limited [hereinafter the 'company'] in his capacity as an employee (in-house legal team) in the year 2014 and was subsequently

appointed as a 'Professional Director Legal' of the company w.e.f. 23.07.2015. However, he resigned as Professional Director Legal on 15.06.2017.

6. Ms. Shruti Kanodia, learned counsel appearing on behalf of the petitioner submits that as of now the grievance of the petitioner is that he has not been given the relevant documents alongwith SCN, thereby denying him meaningful opportunity to reply to SCN.

7. She submits that SCN when initially given to the petitioner was not accompanied by any relied upon documents. However, subsequently, the bank *vide* its letter dated 07.05.2025 gave incomplete copies of Forensic Audit Report [hereinafter 'FAR'] and Transaction Audit Report [hereinafter 'TAR']. She submits that the said two documents were received by the petitioner through courier and the same were not duly paginated. Further, some of the pages were illegible.

8. She contends that beside asking for complete legible copies of the FAR and TAR, petitioner had also requested IDBI *vide* his letter dated 19.05.2025 to furnish various other relevant documents which were enumerated in Enclosure-1 to the said letter.

9. She submits that IDBI responded *vide* its letter dated 23.06.2025, wherein it took the stand that documents relied upon by it for issuance of SCN dated 24.12.2024 have already been provided. The bank did not, however, comment upon the documents which were mentioned in Enclosure-1 to the petitioner's letter dated 19.05.2025. She 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, she places reliance on the decision of

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.***
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> *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. She 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 some and substance, submission of Ms. Kanodia is that there is non-compliance of principles of natural justice.

12. In view of the above, issue notice. Mr. Anand Verma, learned counsel appearing on behalf of respondent nos. 2 and 3 accepts notice.

13. Mr. Verma contends that the documents which have been relied upon in SCN have already been supplied. He places reliance on the decision of the Hon'ble Supreme Court in ***SBI and Ors. v. Rajesh Aggarwal and Ors.***, ***(2023) 6 SCC 1***, particularly on paras 80 and 98.6 thereof, which reads thus:

> *"80. Audi alteram partem has several facets, including the service of a notice to any person against whom a prejudicial order may be passed and providing an opportunity to explain the evidence collected. In Tulsiram Patel [Union of India v. Tulsiram Patel, (1985) 3 SCC 398 : 1985 SCC (L&S) 672] , this Court explained the wide amplitude of audi alteram partem : (SCC p. 476, para 96)*
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> > "*96. The rule of natural justice with which we are concerned in these appeals and writ petitions, namely, the* audi alteram partem *rule, in its fullest amplitude means that a person against whom an order to his prejudice may be passed should be informed of the allegations and charges against him, be given an opportunity of submitting his explanation thereto, have the right to know the evidence, both oral or documentary, by which the matter is proposed to be decided against him, and to inspect the documents which are relied upon for the purpose of being used against him, to have the witnesses who are to give*

evidence against him examined in his presence and have the right to cross-examine them, and to lead his own evidence, both oral and documentary, in his defence. The process of a fair hearing need not, however, conform to the judicial process in a court of law, because judicial adjudication of causes involves a number of technical rules of procedure and evidence which are unnecessary and not required for the purpose of a fair hearing within the meaning of *audi alteram partem* rule in a quasi-judicial or administrative inquiry."

xxx *xxx* *xxx*

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."

14. Considering that limited controversy involved in the present petition is with regard to non-supply of relevant documents, this Court is of the view that the petition can be disposed at this stage itself without calling for counter-affidavit from respondents-Bank.

15. The documents, which according to the petitioner, are relevant to the controversy have been enumerated in Enclosure-1 to petitioner's letter dated 19.05.2025. At this stage, it is not deemed appropriate for this Court to go into the relevancy of the said documents. However, this Court finds that the respondent-Bank in its letter dated 23.06.2025, while taking a stand that additional documents sought by petitioner have not been relied by IDBI for issuance of SCN, has not decided as to whether said documents sought by petitioner are relevant to controversy or not.

16. Having regard to law laid down by Hon'ble Supreme Court in ***T. Takano*** (supra), as well as, ***Milind Patel*** (supra), present petition is disposed of with a direction that respondent-IDBI may consider request of petitioner made in his letter dated 19.05.2025 and decide on the relevancy of documents sought by petitioner before proceeding to hear petitioner on merits of the case.

17. It is pointed that personal hearing has been fixed by the 'Fraud Examination Committee' [hereinafter 'FEC'] on 25.07.2025. Accordingly, IDBI/FEC is directed to defer personal hearing and first decide request of petitioner for furnishing the documents sought and relevancy thereof. Such decision be taken within a period of 14 days from today.

18. In case it is decided that any documents are relevant and need to be provided to petitioner, same shall be provided by the IDBI within one week thereafter against acknowledgement in writing. Thereafter, the petitioner shall be at liberty to file reply to show cause notice within two weeks from date of receipt of relevant documents. However, in case IDBI 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.

19. After receipt of reply to show cause notice, IDBI/FEC may fix a date for personal hearing, giving at least two weeks' clear time to petitioner.

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

VIKAS MAHAJAN, J

JULY 24, 2025/N.S. ASWAL