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

% *Judgment Delivered on: 24.09.2025*

\+ **W.P.(C) 15172/2024 and CM APPL. Nos. 63584/2024 and 54532/2025**

RAJIV GUPTA .....Petitioner

Through: Mr. Darpan Wadhwa, Sr. Advocate with Mr. Abhishek Garg, Mr. Yash Gaiha, Ms. Divita Vyas, Ms. Rhea Bhalla And Mr. Naman Bhalla, Advocates.

versus

INDIAN BANK LIMITED & ORS. .....Respondents

Through: Mr. Rajesh Kumar Gautam, Mr. Deepanjat Choudhary, Advocates for Indian Bank.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J (ORAL)

CM APPL. 63585/2024

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

W.P.(C) 15172/2024

3. The present petition has been filed by petitioner seeking following reliefs:

> *"A) Issue appropriate writ in the nature of certiorari or directions/order quashing the Impugned Order dated 01.10.2024 issued by Respondent No. 1;*
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> *B) Issue appropriate writ in the nature of certiorari or*

directions/order quashing the Impugned Show Cause Notice dated 29.04.2024 issued by Respondent No. 1;

C) Issue an appropriate writ in the nature of certiorari or directions/order to deem the Impugned Audit Report dated 16.08.2023 of Respondent No. 3 as non-est in the eyes of law as the same is arbitrary and without any authority of law;

D) Issue appropriate writ in the nature of mandamus or directions/order to stay the operation of Impugned Order and all the consequent proceedings arising out of the Impugned Order dated 01.10.2024 issued by Respondent No. 1 thereto"

4. Essentially, the challenge in the present petition is to the impugned order dated 01.10.2024, whereby the loan account of M/s. RCI Industries and Technologies Ltd. (hereinafter 'borrower company') in which petitioner was a Director/Guarantor, has been classified as 'fraud'.

5. Mr. Darpan Wadhwa, learned Sr. Counsel appearing on behalf of petitioner assails the said impugned order *inter alia* on the ground that the order passed is non-speaking. To buttress his contention, he has invited attention of the Court to Clause B at page 103 of the paper-book (page 16 of the impugned order), to contend that as regard the allegations noted in the impugned order with reference to the audit report, the recorded observation of the bank is that '*the reply does not disprove the fraud, hence committee has not accepted the reply*'. He contends that it is for the respondent Bank to give a positive finding on the basis of material placed before it and the burden of proof cannot be shifted to the petitioner.

6. He further contends that the underlying documents on which the show-cause notice dated 29.04.2024 is predicated, have not been supplied to petitioner. He submits only a copy of the forensic report was given, but even annexures to the said forensic report were not supplied to petitioner. That

apart, there are other documents which are relevant to the controversy, and the same were sought by the petitioner, but they were not supplied.

7. In support of his contention, Mr. Wadhwa has invited attention of the Court to the reply dated 14.05.2024, Annexure P-12 whereby request was made to the respondent Bank to supply the underlying documents.

8. He places reliance on the decision of the Hon'ble Supreme Court in ***T. Takano vs. Securities and Exchange Board of India and Another, (2022) 8 SCC 162*** to contend that not only the documents which have been relied upon in the show-cause notice, but also the one which are relevant to the controversy ought to be supplied to the noticee along with the show-cause notice.

9. He further submits that personal hearing was not afforded to petitioner before classifying the account of the company as 'fraud' by way of impugned order. He submits that the Hon'ble Supreme Court in ***SBI and Ors. v. Rajesh Aggarwal and Ors.***, ***(2023) 6 SCC 1***, has laid down that hearing needs to be afforded to the affected party before an order classifying the account as fraud is passed. He also places reliance on the Division Bench judgment of this Court in ***IDBI Bank Ltd vs. Gaurav Goel & Ors., 2025 SCC OnLine Del 935.***

10. Mr. Wadhwa also draws attention of the Court to the impugned order dated 01.10.2024 to contend that the Fraud Examination Committee has recorded certain findings, which are in favour of present petitioner, as is borne out from the following paragraphs of the said order:

> *"The Fraud Examination Committee after examining the submission/ representation of the Company M/s RCI Industries & Technologies Limited and its suspended Directors I Guarantors Mr. Rajeev Gupta, Mrs. Mamta Gupta, against*

each of the alleged acts/omissions/non-compliances mentioned in the Show Cause Notice, did not find any material to disprove the fraud pointers in the Points B, H, J, K, P & Q except Point A, C, D, E, F, G, I, L, M, N & O."

11. On a query posed by the Court as to whether personal hearing was afforded to the petitioner, Mr. Rajesh Kumar Gautam, learned counsel appearing on behalf of respondent Bank fairly concedes that personal hearing was not afforded. He, however, adds that petitioner may furnish a list of documents which are material and relevant to the controversy and upon consideration by the Bank, if found relevant, the same will be furnished to the petitioner, should the bank has custody of the same.

12. At this stage, apposite it would be to refer to the decision of the Hon'ble Supreme Court in ***Rajesh Aggarwal*** (supra), wherein the Hon'ble Supreme Court has clearly laid down that before classifying an account as fraud, the borrower needs to be afforded a hearing. The relevant excerpts from the said judgment read thus:

> *"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.***
>
> *xxx xxx xxx*
>
> *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.***

xxx xxx xxx

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 is upheld. *The judgments of the High Court of Telangana dated 22-12-2021 and 31-12-2021, and of the High Court of Gujarat dated 23-12-2021 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)

13. Further, 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 ***Rajesh Aggarwal*** (supra) means 'personal hearing'. The relevant excepts from the said decision reads 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)

14. In view of the submissions noted hereinabove, as well as, regard being had to the legal position exposited in the two decisions adverted to hereinabove, this Court finds that the impugned order of fraud cannot be sustained. Accordingly, the impugned order dated 01.10.2024 is quashed

and set aside. Consequently, parties are relegated to the stage of show-cause notice.

15. However, the Bank shall be at liberty to pass a fresh order in accordance with law, after considering the request of petitioner for supply of relevant documents, list of which shall be furnished by petitioner within a period of three weeks from today.

16. Needless to clarify that the Bank shall also afford personal hearing to petitioner before passing a speaking order.

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

VIKAS MAHAJAN, J

SEPTEMBER 24, 2025/*jg*