IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 18632 of 2025

Sunil Kanoria

Vs.

DBS Bank India Limited

Mr. Ratnanko Banerjee, Sr. Adv.
Mr. Jishnu Chowdhury, Sr. Adv.
Mr. Deepan Kumar Sarkar
Mr. Soumalya Ganguli
Mr. Naman Chowdhury
Mr. Shubrojyoti Mookherjee
Mr. Samriddha Sen

....For the petitioner.

Mr. Dhruv Dewan
Mr. Deepanjan Dutta Roy
Ms. Arushi Chandra
Mr. Udbhav Nanda
Ms. Sanjana Jha
Ms. Rashi Sharma
Ms. Aditi Rathore

....For the respondent.

Hearing Concluded On : 14.01.2026
Judgment on : 10.02.2026

<u>Krishna Rao, J.</u>:

1. The petitioner has challenged the impugned Show Cause notice dated 24th July, 2025, issued by the DBS Bank India Limited directing the petitioner to show cause as to why the account of the petitioner shall not be declared as "fraud".

2. The petitioner contended that the respondent failed to act in accordance with its statutory obligations and responsibilities in terms of the Reserve Bank of India Master Directions.

3. It is further contended that the show cause notice issued by the respondent, is without any jurisdiction and is arbitrary, perverse and violation of principles of natural justice. It is submitted that the respondent bank failed to furnish either the purported Forensic Audit Report or the documents relied in the show cause notice.

4. It is submitted that the petitioner do not has access to the record of the SREI Entities since October, 2021 and the petitioner is not in a position to deal with and respond to the allegations made in the show cause notice.

5. Mr. Ratnanko Banerjee along with Mr. Jishnu Chowdhury, Learned Senior Advocates representing the petitioner submits that the show cause notice has been issued on the basis of the Forensic Audit Report by mechanically and selectively reproducing certain parts thereof without context or basis but the respondent failed to provide a copy of Forensic Audit Report or the copies of the documents on the basis of which the Forensic Audit Reports were prepared.

6. Mr. Banerjee submits that in the absence of each and every documents on the basis of which the allegations have been made against the petitioner in the show cause notice is being made available to the petitioner and a reasonable time is given to the petitioner, the petitioner will not be in a position to give appropriate reply to the show cause notice.

7. Mr. Banerjee in support of his submissions, has relied upon the judgement in the case of ***Hemant Kanoria Vs. Bank of India*** passed in ***WPA No. 28329 of 2023*** dated ***2nd February, 2024*** and submits that in the said case, the Coordinate Bench of this Court held that a show cause notice is to be issued, enumerating the exact offences alleged against the borrower/ Director. If any, Forensic Audit Report or other document forms on the basis of the show case notice, the same is to be served along with the show cause notice.

8. Mr. Banerjee further relied upon the judgment in the case of ***Milind Patel Vs. Union Bank of India and Others*** reported in ***2024 SCC OnLine Bom 745*** and submits that the Division Bench of the Bombay High Court held that it is now well settled that due to compliance with principles of natural justice must essentially entail compliance with the obligation to provide access to the material on which the allegations are based.

9. Mr. Dhruv Dewan, Learned Advocate representing the respondent submits that show cause notice was issued on 24^{th} July, 2025 but the petitioner has not filed any show cause reply.

10. Mr. Dewan has relied upon the judgment in the case of ***Hemant Kanoria (supra)*** and submits that the Coordinate Bench of this Court also held that the balance has to be struck between the limit up to which technicalities should be adhered to on the one hand and speed in reporting is ensured on the other hand. He submits that the time is the essence of the entire Master Directions, which lends an extremely summary character to the process involved therein.

11. Mr. Dewan submits that the respondent has already supplied Forensic Audit Report to the petitioner before issuance of show cause notice and thus there is no requirement to supply of further Forensic Audit Report to the petitioner.

12. The issue raised by the petitioner is that the respondent bank has issued show cause notice to the petitioner without supply of copy of the Forensic Audit Report and its documents, and it is the contentions of the respondent that Forensic Audit Report is served upon the petitioner. The fact remains that the petitioner has not submitted any reply to the show cause notice and has filed the present writ application.

13. In the case of ***Hemant Kanoria (supra)***, the Coordinate Bench of this Court framed the guidelines with respect to declaring the account "fraud" under the Master Directions keeping in view of the judgment passed in the case of ***Rajesh Agarwal*** and held that:

> *"**64.** First, a show-cause notice is to be issued, enumerating the exact offences alleged against the borrower/Director. If any FAR or other document forms the basis of the show-cause, the same is to be served along with the show-cause notice. (Both the said criteria have, in fact, have been satisfied in the present case in respect of BOI, BOB and UBI.)*
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> ***65.** A fortnight thereafter would be ample time to give reply to the showcause notice. In its reply, the noticee shall, apart from addressing the allegations and controverting those specifically, specify the documents which are required to be provided to the noticee by the Banks/financial institutions. If necessary, in the reply, the borrower/Director or promoter can reserve its rights to give a further additional reply upon receiving such documents."*

14. In the present case, the petitioner has received show cause notice dated 24th July, 2025 on 26th July, 2025. In the show cause notice, the respondent called upon the petitioner to show cause as to why account(s) of SREI Infrastructure Finance Limited and SREI Equipment Finance Limited should not be classified as "Fraud" under the RBI Master Directions. In the show cause notice, the petitioner has also been given opportunity to provide response to all other findings in the Forensic Audit Report but the petitioner choose not to give any reply and has filed the present writ application.

15. In the present case, the petitioner after receipt of show cause notice instead of submitting reply, has filed the instant writ petition. The petitioner ought to have filed their show cause reply indicating the documents which the petitioner requires to give elaborate reply to the allegations in the show cause notice but instead of the same, the petitioner has filed the present application.

16. The Coordinate Bench of this Court in the case of ***Hemant Kanoria (supra)*** also held that a balance has to be struck between the limit up to which technicalities should be adhered to on one hand and speed in reporting is ensured on the other hand. The time is the essence of the entire Master Directions, which lends an extremely summary character to the process involved therein.

17. Considering the facts and circumstances of the instant case, this Court is of the view that without submitting any reply or without requesting the respondent for supply of documents and the Forensic Audit Report after receipt of the show cause notice have invoked the writ jurisdiction, thus **writ petition is dismissed**.

18. However, the dismissal of writ petition will not prevent the petitioner to give reply to the show cause notice.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)