

Rekha Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
WRIT PETITION NO. 2517 OF 2024

Nayan Thakarshi Shah and Ors. ...Petitioners  
*Versus*  
Reserve Bank of India and Anr. ...Respondents

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**Mr. Pranjit Bhattacharya** with Ms. Sejal Joshi, Avdhoot Prabhu i/b  
Lex Services, for the Petitioners.  
**Ms. Rathina Maravarman** with Ms. Asma Batatawala, for the  
Respondent No.2.

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**CORAM: SUMAN SHYAM &  
SHYAM C. CHANDAK, JJ.**

**DATED: 16<sup>th</sup> MARCH, 2026.**

**PC:-**

1. Heard Mr. Pranjit Bhattacharya, learned Counsel appearing for the Petitioners and Ms. Rathina, learned Counsel appearing for the Respondent No.2. None has appeared for the Respondent No.1.

2. The three Writ Petitioners herein are the former Directors of M/s. Neptune Developers Limited, which company had gone into Liquidation and the Corporate Insolvency Resolution Process ("CIRP") has also, since, been finalized.

3. The grievance of the Petitioners herein is that the account in question has been classified as fraud by the Respondent No.2 and the names of the Directors of the company have been included in

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the Central Fraud Registry without giving any opportunity to the Petitioners to show cause in the matter.

4. Mr. Bhattacharya, learned Counsel appearing for the Petitioners submits that after the decision of Hon'ble Supreme Court in the case of **State Bank of India & Ors. vs. Rajesh Agarwal & Anr.**<sup>1</sup>, law is firmly settled that no fraud declaration would be permissible without serving prior show cause notice and giving an opportunity of being heard to the effected party.

5. According to Mr. Bhattacharya, by relying on the decision in the case of **Rajesh Agarwal & Anr. (Supra)**, several classifications of fraud have been interdicted by the Courts. Therefore, he submits that the present is also a fit case for passing a similar order.

6. The prayer made by the Petitioners has been strongly opposed by Ms. Rathina, learned Counsel appearing for the Respondent No.2-Bank, by contending that since the Petitioners did not take any action in the matter since the year 2018, when the process was initiated, they cannot now be permitted to take advantage of the situation only because of the decision in **Rajesh Agarwal & Anr. (Supra)**. On such facts, she submits that the Petitioners are not entitled any equitable consideration from this Court.

7. This Court is not concerned with the recovery of any money due and payable by the Petitioners or on the intricacies of the CIRP. The only question that arises for consideration of this Court in the

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present proceedings is as to whether, the account could have been classified as “fraudulent” and the names of the Directors could have been entered in the Central Fraud Registry, without giving them any opportunity of showing cause. In view of the decision in the case of **Rajesh Agarwal & Anr. (Supra)** wherein, it has been categorically held that the Principles of *audi alteram partem* has to be complied with before fraud declaration, the said issue is no more *res integra*. The Banks will have to issue prior notice and hear the affected parties before fraud declaration. Viewed from that angle, we find force in the submission of Mr. Bhattacharya that the impugned classification deserves to be set aside by this Court. Prayer is allowed.

8. The classification of fraud and the consequent incorporation of names of the Petitioners in the Central Fraud Registry is hereby interdicted.

9. However, liberty is granted to the Respondent-Bank to proceed in the matter afresh, if so advised, by serving prior show cause notice upon each of the Petitioners and after giving them proper opportunity of being heard in the matter.

10. It will be open for the Respondent No.2-Bank to initiate appropriate proceeding against the Petitioners within a period which is not later than six months from today.

11. Writ Petition stands disposed of accordingly.

(SHYAM C. CHANDAK, J.)

(SUMAN SHYAM, J.)