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

% ***Judgment pronounced on: 10.04.2026***

\+ **W.P.(C) 10033/2025**

VIJAY KUMAR CHOUDHARY .....Petitioner

Through: Mr. Ravi Prakash, Sr. Advocate along with Mr. Aditya Dewan, Ms. Himangi Kapoor, Ms. Vandana Anand and Mr. Swetank Kumar, Advocates.

versus

STATE BANK OF INDIA & ANR. .....Respondents

Through: Mr. Sanjay Kapur along with Mr. Surya Prakash, Mr. Abhishek Tiwari and Ms. Santha Smruthi, Advocates for R-1.

Mr. Rohan Jaitley, CGSC, Mr. Dev Pratap Shahi, Mr. Varun Pratap Singh and Mr. Yogya Bhatia, Advs., UOI.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

1. The present petition has been filed by the petitioner praying as under–

> *"A. Issue a writ of Certiorari or any other writ/order/direction in the nature thereof quashing/setting aside the Look Out Circular(s), issued against the Petitioner (bearing Passport no. ZA018639) at the instance of Respondent No. 1 vide ref. dated 17.05.2019 or otherwise, and issue necessary directions/intimation to Respondent No. 2, i.e., the Bureau of Immigration, Ministry of Home Affairs, New Delhi as regards quashing of the said LOCs, and*
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> *B. Issue a writ of certiorari/mandamus or any other writ/order/direction in the nature thereof directing Respondent No. 2 to not restrict the Petitioner (bearing Passport No. ZA018639) from travelling abroad and/or interfere with his right to travel abroad".*

2. The background of the matter is that the petitioner was invited to join the Board of Directors of Educomp Solutions Limited (ESL) as a non-executive/independent director. The petitioner accepted the position and was appointed as a non-executive/independent director on 13.11.2013.

3. Subsequently, the petitioner was also appointed as a non-executive/independent director in other Educomp Group entities, Edu Smart Services Private Limited (ESSPL) and Educomp Infrastructure and School Management Limited (EISML), in 2015.

4. ESL was incorporated in 1994 under the Companies Act, 1956 and was engaged in the business of creating, developing and providing digital educational content. It was the flagship company of the Educomp Group, which also included ESSPL and EISML.

5. Between November 2011 and December 2012, ESL and its group companies availed various loan facilities from a consortium of banks, including the State Bank of India (SBI)/respondent no.1.

6. Subsequently, ESL and EISML sought restructuring of their debts under the Corporate Debt Restructuring (CDR) mechanism introduced by the Reserve Bank of India (RBI) vide Circular No. BP.BC.15/21.04.114/2000-01 dated 23.08.2001, to ensure a timely and transparent system for the restructuring of corporate debts of viable corporate entities.

7. It is emphasised by the petitioner that vide Circular No. DBOD. No. BP.BC.68/21.04.132/2002-03 dated 05.02.2003 issued by the RBI, an eligibility criterion was laid down for the institution and implementation of the CDR mechanism, which states that in no case would the requests of any

corporate indulging in wilful default, fraud, or misfeasance be considered for restructuring under CDR system.

8. It is submitted that the said restructuring was sanctioned by the lenders, including SBI, thus, the petitioner had strong reasons to believe that ESL/EISML were admitted to the CDR Scheme only after the lenders were satisfied that there was no incidence of wilful default, diversion, siphoning etc.

9. It is submitted by the petitioner that the petitioner joined the Board of the Educomp Group companies thereafter as a non-executive/independent director, on the understanding that the companies had already been admitted into the CDR mechanism without any adverse findings.

10. In due course, it is submitted that ESL and EISML were admitted into the Corporate Insolvency Resolution Process under the Insolvency and Bankruptcy Code, 2016, and that their respective resolution plans were approved by the National Company Law Tribunal.

11. Thereafter, on account of certain alleged financial irregularities and instances of fraud, the impugned LOC was issued against the petitioner at the behest of the chairman of the respondent no.1/SBI on 17.05.2019.

12. Thereafter, on 10.02.2020, an FIR came to be registered by the CBI at the instance of the State Bank of India, pursuant to the fraud classification/declaration under the RBI's Master Directions on Fraud-Classification and Reporting by Commercial Banks and Financial Institutions dated 01.06.2017 ("Fraud Declaration Circular"), alleging that ESL and its promoters/directors had obtained loan facilities from various banks for running their business, however, such loan amounts were allegedly diverted/ siphoned off without any genuine business being done

and consequently, ESL, defaulted in meeting its repayment obligations. The petitioner was named in the FIR on account of him being an independent director/non- executive member of ESL. However, it is emphasised by the petitioner that no specific overt act or omission is otherwise alleged against the petitioner in the said FIR.

13. It is submitted by the petitioner that multiple writ petitions were filed by other ex-directors/promoters before this Court challenging the aforesaid FIR, wherein interim protections were granted, including a stay on the investigation against the said directors/promoters.

14. The account of ESL was also classified/declared a ‘Fraud’ account by SBI, purportedly in terms of the aforesaid Fraud Declaration Circular. On 03.03.2020, this Court, in W.P. (C) No. 2424/2020 (filed by another ex-director of ESL), directed that no further measures shall be taken pursuant to the ‘Fraud declaration’ by the SBI purportedly under the Fraud Declaration Circular.

15. Subsequently, on 29.06.2021, another FIR was registered by the CBI against EISML and its promoters/director u/s 406, 420 & 120B of the IPC and Section 13(2) r/w Section 13(1)(d) of the PC Act, alleging siphoning of funds from EISML through related parties. The petitioner was again arrayed as an accused by virtue of his designation as a director.

16. Meanwhile, another FIR was registered on 28.04.2022 against ESL and its promoters/directors wherein the petitioner’s name was again included, on the complaint of Jammu & Kashmir Bank alleging similar acts of siphoning of funds.

17. The ex- promoter of ESL filed W.P. (Crl) No. 1047/2022 before this Court challenging the FIR dated 28.04.2022. It is submitted that the Court

vide order dated 06.05.2022 directed that no coercive action shall be taken against the said ex- promoter till next date thereof.

18. The petitioner thereafter filed W.P. (C) 9320/2022 challenging the fraud classification / declaration made qua him by the SBI, inter alia, on the ground of violation of principles of natural justice and on the basis that he was merely a non-executive independent director with no involvement in the day-to-day affairs of the company. It was also pointed out that SBI's own Wilful Defaulter Identification Committee had earlier decided that the name of the petitioner be not included in the CICs list of Wilful Defaulters and the said decision was communicated to the petitioner on 29.02.2020.

19. It is emphasised by the petitioner that this Court on 03.06.2023 issued notice in the said writ petition and restrained the SBI from taking any further steps or actions prejudicial to the petitioner in furtherance of the order declaring the bank account of petitioner as 'Fraud'.

20. Subsequently, on 02.08.2023, this Court disposed of W.P. (C) No. 9320/2020 filed by the petitioner after recording the undertaking/affidavit given by the SBI that they will remove the petitioner's name from 'fraud' database with respect to ESL and EISML in light of the judgement dated 27.03.2023, passed by the Supreme Court in Civil Appeal No. 7300/2022 titled as "State Bank of India & Others vs. Rajesh Aggarwal & Others".

21. It is submitted that the SBI in its affidavit dated 25.07.2023 filed in W.P. (C) No. 9320 of 2020 stated that SBI shall remove the name of the petitioner from 'fraud account' related database.

22. Subsequent to the aforesaid order dated 02.08.2023 passed by this Court in W.P. (C) No. 9320/2022, the SBI sent communication dated 31.08.2023 to the petitioner informing the petitioner that his name has been

removed from the 'Fraud' tagging in respect of the accounts of ESL and EISML.

23. The grievance of the petitioner now is that, consequent to the aforesaid undertaking, the LOC issued against him ought to have been withdrawn as well.

24. Thus, the present petition has been filed by the petitioner challenging the said LOC issued at the behest of the Chairman of SBI *vide* Ref. dated 17.05.2019.

25. The contention of the petitioner is that –

i. SBI has acted in contravention of its own undertaking dated 25.07.2023 given before the Court in W.P. (C) No. 9320/2020, wherein it unequivocally assured removal of the petitioner's name from the 'fraud' database in relation to ESL and EISML. However, SBI failed to comply the same. It is submitted that had the SBI adhered to its undertaking, the LOC against the petitioner ought to have been deleted as well, since a LOC is subject to review, quarterly and annually.

ii. The LOC issued against the petitioner is in teeth of Section 149 (12) of the Companies Act, 2013 which stipulates that an independent and non- executive director should not be made liable for the offences committed by the companies unless there is material to demonstrate that the acts of omission or commission occurred with his knowledge, attributable through board process, with his consent or connivance. In the present case, there are no specific allegations against the petitioner in the above-mentioned FIRs. Additionally, vide circular dated 02.03.2020, the Ministry of Corporate Affairs basis Section 149 (12) of the Companies Act, 2013 directed the Registrar of Companies to not initiate any civil and/or criminal proceedings against nonexecutive / independent directors of a company.

iii. Petitioner in the present case is not even a guarantor to the financial facilities extended by the SBI to ESL and/or any other Educomp Group company. Hence, no purpose will be served by keeping the LOC open against the petitioner as no recovery is to be made from him. It is further submitted that CBI, is no longer seeking issuance or continuation of any LOC against the petitioner.

iv. The authority of Public Sector Banks to issue LOCs has been invalidated. The Division Bench of the Bombay High Court in ***Viraj Chetan Shah v. Union of India & Anr***. 2024 SCC OnLine Bom 1195, struck down the relevant clause of the MHA Office Memorandum as ultra vires Article 14 of the Constitution.

v. Further reliance has been placed on ***Rajesh Kumar Mehta v. Union of India & Ors***. DHC W.P. (C) 11707 of 2022 dated 28.05.2024, ***Preet Kaur and Anr. v. Bureau of Immigration & Ors***. DHC W.P. (C) 11139 of 2022 dated 12.07.2024, ***Balram Garg v. Union of India & Anr***. DHC W.P. (C) 6739 of 2024 dated 12.07.2025, ***Dhanesh Kumar Manglani v. Union of India & Ors***. MPHC W.P. (C) No. 5001 of 2024 dated 15.10.2024 and ***Vinay Mittal & Anr. v. Bank of Baroda & Ors***. DHC W.P. (C) No. 4781 of 2024 dated 15.04.2025.

26. On the other hand, the case of the respondent no. 1/SBI is that -

i. A forensic audit conducted during the Corporate Insolvency Resolution Process revealed alleged financial irregularities and instances of fraud, leading to the account being declared fraudulent and a complaint being lodged with the CBI. Consequently, an LOC was issued against the petitioner at the behest of the respondent no.1/SBI on 17.05.2019. Thereafter, an FIR dated 10.02.2020 was registered by the CBI, wherein the petitioner was arrayed as an accused. The investigation in the said FIR has been stayed by this Court in writ petitions being WP (Crl.) No. 645/2020 and other connected matters filed by other directors seeking quashing of the said FIR. The proceedings remain pending. It is further submitted that the LOCs were also issued by the CBI against the petitioner.

ii. Separately, the petitioner challenged the fraud declaration made qua him before this Court in WP (C) 9320/2020, which was disposed of on 02.08.2023.

iii. It is submitted that a fresh show cause notice dated 13.11.2023 was thereafter issued to the petitioner to show cause why he should not be categorized and reported as fraud, to which the petitioner has responded on 22.12.2023 and the proceedings are still pending. Further, reliance is placed on the Supreme Court judgment in ***SBI v. Rajesh Aggarwal*** (2023) 6 SCC 1.

iv. It is further submitted that ***Viraj Chetan Shah v. Union of India*** (supra) is presently under challenge before the Supreme Court and the Court has directed that the affected parties shall seek permission from the High Court before travelling abroad. It is thus prayed that similar conditions be imposed on the petitioner in the present case.

v. It is also submitted that the judgments relied upon by the petitioner are distinguishable on facts, of each case.

vi. As regards withdrawal of the LOC by the CBI, it is submitted that even the CBI has sought for imposition of conditions on the petitioner's foreign travel, considering the difficulty in securing the presence of economic offenders from abroad.

27. Upon consideration of the submissions advanced on behalf of the parties, this Court finds merit in the submissions canvassed by learned counsel for the petitioner.

28. At the outset, the impugned Look-Out Circular (LOC) has been issued at the instance of the Chairman of the State Bank of India. Sub-para (xv) to para 8(b) of the Ministry of Home Affairs' Office Memorandum No. 25016/31/2010-Imm dated 27.10.2010 (corresponding to Clause 6(B)(xv) of the consolidated Office Memorandum of 2021), which empowered the Chairman, Managing Directors and Chief Executive Officers of Public Sector Banks to request issuance of LOCs, already stands quashed by the Division Bench of the Bombay High Court in ***Viraj Chetan Shah v. Union of India through the Ministry of Home Affairs & Anr.***, 2024 SCC OnLine Bom 1195. The relevant portion of the judgment reads as under:

> *"195. Consequently:*
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> *(a) Clause 8(b)(xv) of the 2010 amended OM (equivalent to Clause 6(B)(xv) of the 2021 consolidated OM) which includes the Chairmen, Managing Directors and Chief Executive Officers of all public sector banks as authorities who may request the issuance of a Look Out Circular is quashed.*
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> *(b) All the LOCs are quashed and set aside.*
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> *(c) The Bureau of Immigration will ignore and not act upon any LOCs issued by any public sector banks. All databases will be updated accordingly. We do not expect the public sector banks to do this, and therefore direct the Bureau of Immigration or MHA to do the needful.*
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> *(d) All authorities at all ports of embarkation will be informed and apprised accordingly."*

29. Though Special Leave Petitions challenging the aforesaid judgment have been preferred, however, no stay has been granted against the operation of the said judgment. Consequently, Clause 6(B)(xv) of the consolidated Office Memorandum of 2021, which empowered Public Sector Bank officials to request issuance of LOCs, presently does not survive in law. The same renders the LOC issued at the behest of the respondent no.1/SBI unsustainable and invalid.

30. In view of the aforesaid authoritative pronouncement, the very foundation of the impugned LOC, having been issued at the instance of a Public Sector Bank, stands vitiated in law.

31. Secondly, it has been specifically submitted on behalf of the petitioner that the CBI is no longer persisting with any LOC qua the petitioner. This position has not been disputed by the respondent no.1/SBI.

32. Thirdly, the impugned LOC, having been issued as far back as 17.05.2019, is not supported by any allegation or material to suggest that the petitioner has ever evaded the process of law or failed to cooperate with the investigating agencies.

33. In view of the foregoing, the impugned Look-Out Circular (LOC) is hereby quashed, subject to the petitioner furnishing an undertaking by way of an affidavit affirming that the petitioner shall:

(i) continue to cooperate in any investigation and appear before the investigating authority/ies, as and when required or directed, and render full cooperation in any ongoing proceeding/s and investigation/s; and

(ii) provide all material/documents requested from him by the investigating agencies, and as may be available within his power or possession.

34. The petition is disposed of in the above terms.

APRIL 10, 2026/*sv* **SACHIN DATTA, J**