

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.20763 of 2021
Decided on : 11.10.2021

Jagdeep Singal

... Petitioner

Versus

Wilful Defaulter Identification Review Committee, Indian Bank & others

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE SANT PARKASH**

Present: Mr.Atul Sharma, Advocate, for the petitioner.

Mr.Vijay Sharma, Advocate, for the caveator-respondent.

G.S. Sandhawalia, J. (Oral)

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India, is to the letter dated 18.11.2019 (Annexure P-9) issued by respondent No.2 on account of which, the respondent-Bank has unilaterally declared the petitioner as a 'wilful defaulter'. Same is stated to be in contravention of the guidelines issued by the Reserve Bank of India in the year 2013 & 2014 (Annexures P-12 & P-13). Similarly, letters dated 27.09.2021 (Annexures P-24 & P-25) whereby petitioner has been intimated qua the upholding of the order passed by the Review Committee, were challenged on the ground that opportunity of hearing was not granted.

Counsel for the petitioner has vehemently submitted that on an earlier occasion petitioner in CWP-274-2020 (Annexure P-14) had been given liberty to file an application in that regard, within one week, to the competent authority, which was to consider the same, without being influenced by the delay in approaching. It is argued that representation dated 13.01.2020 (Annexure P-15) had been moved, which was followed up by various communications dated 16.01.2020, 20.06.2020 and 01.07.2020 (Annexures P-16 to P-18). Thereafter, he had approached this Court in CWP-12134-2020 and following order was passed on 17.12.2020:

“1. It is seen that pursuant to the order dated 8th January, 2020 of this Court in CWP-274-2020, filed earlier by the Petitioner, the Petitioner had submitted a detailed representation dated 13th January, 2020 in regard to him being declared a willful defaulter. It appears that this representation has not been decided till date.

2. Mr. Vijay Sharma, learned Counsel for the Respondents/ Allahabad Bank, which is now merged with Indian Bank, states that notwithstanding the order dated 14th December, 2020, which only deals with the earlier representation dated 7th October, 2019, the Petitioner's detailed representation dated 13th January, 2020 will now be placed for consideration before the Willful Defaulter Review Committee ('WDRC') and the decision of the WDRC, after hearing the Petitioner at a date that will be communicated to the Petitioner at least 10 days in advance, shall be taken, in any event, not later than 29th January, 2021. A copy of the decision of the WDRC should be made available to the Petitioner not later than 5th February, 2021.

3. If the Petitioner is aggrieved by such decision of the

WDRC, it will be open to the Petitioner to seek appropriate remedies in accordance with law.

4. The petition is disposed of in above terms.”

It is, thus, the grouse of the petitioner that there was delay on the part of the Review Committee as it had not complied with the order within the prescribed period. Now, the petitioner has been intimated of the decision wherein the Review Committee has confirmed his status as 'wilful defaulter', in terms of Clause 2.1.3(b) for diversion of funds, as per the RBI Master Circular dated 01.07.2015. It is submitted that due opportunity had not been granted to the petitioner.

A perusal of the order dated 18.11.2019 (Annexure P-9) would go on to show that petitioner along with other family members including his son, residing in the same house, were declared wilful defaulters, while noticing that they were suspended Directors of M/s JVR Forgings Ltd. Liberty was, accordingly, given to them to submit their representation in writing before the Review Committee. It was noticed that as per the Forensic Audit conducted by M/s PVRN & Co. Chartered Accountants, the company had received Share Application Money amounting to Rs.1100 lacs and the said amounts were reversed by passing General Vouchers. The company had also adopted the same practice in the past in the year ending 31.03.2011 and 31.03.2012. The Committee, therefore, had unanimously declared the suspended Directors as 'wilful defaulters', as per the RBI Guidelines.

As noticed, on an earlier occasion, petitioner had been directed to approach the Competent Authority and thereafter, he had filed

the second writ petition bearing CWP-12134-2020. Since the Bank did not have the independent Directors on its Board, it filed an application immediately after the order was passed, on 25.01.2021 (Annexure P-20), for extension of time to hear the petitioner and decide the representation. Counsel for the caveator/respondent-Bank has stressed that on account of the non-urgency in the application, same could not be listed during the Covid-2019 pandemic. It is submitted that thereafter, notice was issued to the petitioner by the Review Committee on 12.08.2021 to put in appearance on 26.08.2021 at the given venue 30 minutes before the scheduled time.

Instead of complying with the said notice, petitioner, vide communication dated 25.08.2021 (Annexure P-22), prayed that the matter be deferred for 4 weeks to enable him to avail the independent remedies available including the one-time settlement scheme, on account of the acts having taken place during the intervening period. Said request reads as under:

- “1. This is in reference to the subject matter as above.
2. We are infact obliged to have received the letter under the captioned head for “hearing -wilful defaulter review committee. The Appreciable proceedings now being conducted by your good offices after a period of 24 months.
3. But, your good offices would appreciate that proceedings before the (with all its/their culminating the cumulative effects):
 - a. Hon'ble High Court for the States of Punjab and Haryana at Chandigarh, (filed by bank itself)
 - b. proceeding under section 19 of the Recovery of debts &

dues to banks and financial Institutions Act 1993, & under section 17 of the Securitization Reconstruction Of Financial Assets And Enforcement of Security Interest Act, 2002, c. National Company Law Tribunal at Chandigarh And more specially our tendered proposal for “One Time Settlement!” for consideration of the disputes with the bank as such & in total (which is based on the remedies, subsidies moratorium period/guidelines issued and floated by the Ministry of finance and reserve bank of India- due to the pandemic) is pending consideration therefore the undersigned request your good offices to kindly be **now at this stage defer the hearing (or at least (our weeks** so as to enable the undersigned to have availed off the independent remedies available including the availability of the one-time settlement schemes which are guided by the principles of settlement.

Otherwise, also as much facts and effects have taken place during the intervening period of 24 months the applicant also wishes to collect and tender the sets of documents and other related documents for the hearing too (if required).”

It is, in such circumstances, the Review Committee came to the conclusion that the petitioner had not attended the personal hearing and adequate opportunity had been given to represent his case and therefore, upheld the order dated 18.11.2019 (Annexure P-9). A perusal of the letter dated 27.09.2021 (Annexure P-25) would also go on to show that petitioner along with 3 other family members are liable to pay to the bank a sum of Rs.168,72,14,177.22/- with interest and other charges, failing which, it will proceed with the publication of their names and photographs in the newspapers and bank's website without any further notice.

Keeping in view the above, this Court is of the opinion that it is not a fit case to exercise the extraordinary writ jurisdiction of the Court, as huge defaulting amount is outstanding against the petitioner. The respondent-bank has reasonably explained that it could not take a call by the Review Committee within the time prescribed due to absence of the independent Board of Directors. When opportunity was granted to the petitioner, he had tried to wriggle out of the hearing and in such circumstances, now, cannot turn around and question the procedure which the Review Committee has adopted. For the frivolous issue raised that the impugned orders are not the orders of the Committee but are communications by the bank, this Court does not feel it necessary to address the same.

Accordingly, finding no merit in the present writ petition, the same is hereby dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

(SANT PARKASH)
JUDGE

October 11, 2021
Sailesh

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No