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

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*Judgment Delivered on:29.08.2025*

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W.P.(C) 16953/2022 & CM APPL. 53728/2022 (stay)

M/S RCC INFRAVENTURES LTD & ORS. ....Petitioners

Through: Mr. Manik Dogra, Sr. Adv. with Ms. Priyadarshini Dewan, Ms. Aarohi Mikkilineni, Mr. Himanshu Singhal, Ms. Manisha and Mr. Dhruv Pandae, Advs.

versus

RESERVE BANK OF INDIA & ORS. ....Respondents

Through: Mr. Vivek Jain, Ms. Aastha Tiwari and Mr.Sunny Verma, Advs. for R-2/PNB.  
Mr. Siddharth Singh, Adv. for R-4/HDFC  
Mr. O.P. Gaggar and Mr. Sachindra Karn, Advs. for R-3/UBI and R-5/BOB.

**CORAM:**

**HON'BLE MR. JUSTICE VIKAS MAHAJAN**

**JUDGMENT**

**VIKAS MAHAJAN, J (ORAL)**

1. The present petition has been filed with the following prayer:

*“i. Quash and set aside the Impugned Circular bearing number DBS. CO.CFMC.BC.No.1/23.04.001/2016-17 dated 01.07.2016 issued by the Respondent No. 1 to the extent it violates Article 14 of the Constitution of India in as much as it is vague and does not follow the basic principles of natural justice;*



*ii. Issue a Writ of Mandamus or any other appropriate Writ for quashing/setting aside the impugned action of Respondent No. 2 Bank, Respondent No. 4 Bank and Respondent No. 5 Bank, if any, in declaring the account of the Petitioner No. 1 Company as well as the Petitioners No. 2 - 4 as a Fraud Account;*

*iii. Issue a Writ of Mandamus or any other appropriate Writ for quashing/setting aside the impugned action of Respondent No. 3 Bank, in declaring the account of the Petitioner No. 1 Company as well as the Petitioners No. 2 - 4 as a Fraud Account;*

*iv. Declare the Forensic Audit purported to have been conducted by the Respondent No. 2 Bank, Respondent No. 3, Respondent No. 4 Bank and Respondent No. 5 Bank as invalid and in complete contravention to the due process laid down by law;*

*v. Allow the present Petition and pass a Writ of Mandamus or Certiorari or any other appropriate Writ, Order or Direction for quashing/recalling the effect and operation of any action, taken, contemplated or threatened by the Respondent No. 2 Bank, Respondent No. 3, Respondent No. 4 Bank and Respondent No. 5 Bank of categorizing the Petitioner No. 1 & 4 Company as a "Fraud";"*

2. Essentially, the grievance of the petitioners in the present petition is that accounts of the petitioners have been classified as 'Fraud' by respondent nos. 2 to 5 without complying with the principles of natural justice. Furthermore, case of the petitioners is that the order of the respondent nos. 2 to 5 whereby the accounts have been classified as 'fraud', has not been communicated to the petitioners till date.

3. Respondent nos. 2 to 5 are represented by their respective counsels.

4. On a specific query posed by the Court as to whether the respondent



no.4/HDFC has classified the accounts of petitioners as 'Fraud', Mr. Siddharth Singh, learned counsel appearing on behalf of respondent no.4/HDFC, on instructions, submits that no decision has been taken by the respondent no.4/HDFC Bank to classify the account of petitioners as 'Fraud'.

5. Insofar as respondent no.3/Union Bank of India [UBI], as well as, respondent no.5/Bank of Baroda [BOB] are concerned, Mr. O.P. Gaggar, learned counsel appearing on behalf of the said banks, submits that a decision has already been taken by the said banks to classify the accounts of the petitioners as 'Fraud' and Fraud Monitoring Returns [FMR] have also been filed to that effect.

6. Likewise, Mr. Vivek Jain, learned counsel appearing on behalf of the respondent no.2/PNB, on instructions, submits that a decision has been taken by the respondent no.2/Punjab National Bank [PNB] to classify the accounts of the petitioners as 'Fraud'.

7. However, on being asked by the Court, neither Mr. Gaggar nor Mr. Jain, have been able to point out from the record or produce the said decisions or orders of the respective banks classifying the accounts of the petitioners as 'Fraud'.

8. Mr. Manik Dogra, learned senior counsel appearing on behalf of the petitioners refers to the FMR of respondent no.3/UOI to contend that a Joint Lender's Meeting was held on 23.06.2022 where the findings of the purported forensic audit report were discussed. He submits that as per the FMR, basis said forensic audit report, it was unanimously decided by all the members to identify the accounts of petitioners as 'Fraud' subject to the



approval of the competent authority.

9. Mr. Dogra further submits that neither any forensic audit report was furnished to petitioners nor any show cause notice was issued to the petitioners. Even a personal hearing was not afforded. On further being queried by the Court as to the stand of respondent nos. 3 to 5 in response to the submission of Mr. Dogra, Mr. Gaggar, learned counsel appearing on behalf of respondent nos. 3 and 5, fairly states that only excerpts of forensic audit report were given and the complete forensic audit report was not given to the petitioners. He also states that neither any show cause notice was issued nor a personal hearing was afforded. He justifies such an approach of respondent nos. 3 and 5 by submitting that the decision classifying accounts of the petitioners as 'Fraud' was taken before the decision of the Hon'ble Supreme Court in *State Bank of India vs. Rajesh Agarwal & Ors., (2023) 6 SCC 1*.

10. At this stage, it is apposite to refer to the decision of Hon'ble Supreme Court in *Rajesh Agarwal* (supra) wherein Hon'ble Supreme Court has categorically held that in compliance of principles of natural justice, not only the show cause notice needs to be served on party against whom action is proposed, but personal hearing is also to be afforded. The relevant paragraphs from the *Rajesh Agarwal* (supra) reads 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.***

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***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.***

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***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 [Rajesh Agarwal v. RBI, 2020 SCC OnLine TS 2021] is upheld. The judgments of the High Court of Telangana dated 22-12-2021 [Shree Saraiwwalaa Agr Refineries Ltd. v. Union of India, 2021 SCC OnLine TS 1816] and 31-12-2021 [Yashdeep Sharma v. RBI, 2021 SCC OnLine TS 1852] , and of the High Court of Gujarat dated 23-12-2021 [Mona Jignesh Acharya v. Bank of India, 2021 SCC OnLine Guj 2811] 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)*

11. Reference can also advantageously be made to the decision of Division Bench in **IDBI Bank Ltd. v. Gaurav Goel & Ors., 2025 SCC OnLine Del 935** wherein the Hon'ble Division Bench of this Court has clarified that the expression 'hearing' used in **Rajesh Agarwal** (supra) means 'personal hearing'. The relevant paragraphs 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)

12. Insofar as furnishing of documents is concerned, the Hon'ble Supreme Court in ***T. Takano v. Security and Exchange Board of India and Another, (2022) 8 SCC 162*** has also categorically laid down that not only the relied upon documents but all other documents which are relevant to the controversy also needs to be supplied to the person against whom the action is proposed. The relevant paragraph reads thus:

***“29. The purpose of disclosure of information is not merely individualistic, that is to prevent errors in the verdict but is also towards fulfilling the larger institutional purpose of fair trial and transparency. Since the purpose of disclosure of information targets both the outcome (reliability) and the process (fair trial and transparency), it would be insufficient if only the material relied on is disclosed. Such a rule of disclosure, only holds nexus to the outcome and not the process. Therefore, as a default rule, all relevant material must be disclosed.***

***30. It would be fundamentally contrary to the principles of natural justice if the relevant part of the investigation report which pertains to the appellant is not disclosed. The appellant has to be given a reasonable opportunity of hearing. The requirement of a reasonable opportunity would postulate that such material which has been and has to be taken into account under Regulation 10 must be disclosed to the noticee. If the report of the investigating authority under Regulation 9 has to be considered by the Board before satisfaction is arrived at on a possible violation of the regulations, the principles of natural justice require due disclosure of the report.”***



(emphasis supplied)

13. Likewise, the Bombay High Court in *Milind Patel v. Union Bank of India and Others*, 2024 SCC OnLine Bom 745 following *T. Takano* (supra) has observed as under:

*“25. A plain reading of Takano [T. Takano v. Securities and Exchange Board of India, (2022) 232 Comp Cas 136 (SC); (2022) 8 SCC 162; (2022) 3 SCC (Cri) 306; (2022) 4 SCC (Civ) 248.] would throw light on how the Master Circular must be construed. The Master Circular consciously enables inflicting “penal” consequences, and underlines the “imperative” need to adhere to a “transparent mechanism”. The avoidance of information asymmetry and the means of ensuring transparency as outlined by the hon'ble Supreme Court in Takano [T. Takano v. Securities and Exchange Board of India, (2022) 8 SCC 162 would necessarily mean that principles of natural justice, including the need to provide the underlying material, are inherent and implicit in the process stipulated under the Master Circular. The material and information in question for disclosure to the noticee would be all “relevant” material and not just information that is “relied upon” or “referred to” in the show-cause notice.*

*26. Not only must information that is referred to and relied on in the show-cause notice be supplied but also information that may undermine the allegations contained in the show-cause notice (which may therefore not be referred to or relied on) must be supplied only to ensure that everything relevant to arrive at the truth is available to both parties. The objective of the proceedings initiated by issuance of a show-cause notice is not to somehow find the noticee guilty of wilful default on the same terms as alleged. Instead, the objective is to arrive at the truth as to whether or not an individual in question is to be subjected to “penal” (in the Reserve Bank of India's words) consequences.*

*Therefore, if the bank has conducted a forensic investigation into alleged diversion and siphoning off of funds, and specific roles played by specific individuals is brought out in the*



*investigation, and such a probe would point to plausible interpretation that certain individuals did not play any role in the diversion and siphoning, the material underlying such plausible inference would undermine the allegations. Therefore, fair and transparent symmetrical access to information, as stipulated by the hon'ble Supreme Court in Takano would mean providing access to not only incriminating material but also exculpatory material, since all such information would be relevant for arriving at the truth. Therefore, access to the record is a vital element of complying with principles of natural justice. In the instant case, not only has no material been supplied, but also Union Bank has actually asserted on oath that it was not required to provide any material whatsoever, and that it is for the noticee to prove his innocence.”*

(emphasis supplied)

14. Having regard to the narration of facts and the law enunciated in the decisions adverted to herein above, this Court is of the view that the decision of the respondent nos. 2, 3 and 5 to classify the accounts of the petitioners as ‘fraud’ is not sustainable. Accordingly, the same is quashed and set aside.

15. However, the respondent nos. 2, 3 and 5 are at liberty to initiate fresh proceedings keeping in view the observations made hereinabove.

16. The contentions raised by the petitioners in the present petition *qua* the challenge to the forensic report is left open.

17. The petition, along with pending application, is disposed of in aforesaid terms.

**VIKAS MAHAJAN, J**

**AUGUST 29, 2025**

**N.S. ASWAL**