

(2024) 02 CAL CK 0006

In the Calcutta High Court

Case No : W.P.A. No. 28329, 28980, 29027 Of 2023, 236 Of 2024

Hemant Kanoria

APPELLANT

Vs

Bank Of India

RESPONDENT

Date of Decision : 02-02-2024

Acts Referred:

Reserve Bank of India Act, 1934 — Section 35A, 45IE, 47A

Citation : (2024) 02 CAL CK 0006

Hon'ble Judges : Sabyasachi Bhattacharyya, J

Bench : Single Bench

Advocate : S.N. Mookherjee, Ratnanko Banerji, Jishnu Chowdhury, Deepan Kumar Sarkar, Soumalya Ganguli, Shubhrojyoti Mookherjee, Tushar Mehta, Anoop Rawat, Saurav Panda, Arushi Chandra, Deepanjan Dutta Roy, Rashi Sharma, Sanjana Jha, Dhruv Dewan

Final Decision : Disposed Of

Judgement

Sabyasachi Bhattacharyya, J

1. The writ petitioner Hemant Kanoria was a shareholder and a Director of the SREI Infrastructure and Finance Limited and a Director of SREI Equipment Finance Limited. The Bank of India (BOI), Bank of Baroda (BOB) and Union Bank of India (UBI) were part of a consortium of lenders which had given loans to the said two Companies.

2. The consortium of lenders, at a meeting dated March 24, 2021 of the Joint Lender's Forum (JLF), commissioned an Auditor, namely KPMG, to audit accounts of the two companies.

3. On October 1, 2021, the Reserve Bank of India (RBI) passed an order under Section 45IE of the Reserve Bank of India Act, 1934 (for short, "the 1934 Act") for supersession of the Boards of the two Companies, appointing an Administrator. On October 4, 2021, a press release was issued by the RBI wherefrom the petitioner allegedly learnt of the supersession. On and from that

date, the petitioner claims to have had no access to the affairs and records of the two companies.

4. On October 8, 2021, by virtue of orders passed by the National Company Law Tribunal (NCLT), a Corporate Insolvency Resolution Process (CIRP) commenced in respect of the said two borrower-companies. Meanwhile, relying on the Forensic Audit Report (FAR) authored by the KPMG, the aforesaid three Banks declared the accounts of the two borrower-companies as "fraud" under the RBI Master directions on fraud. The declarations were challenged by the petitioner by three writ petitions before the Delhi High Court. The said High Court, vide order dated May 12, 2023, set aside the declarations by holding that all actions taken against the petitioner under the Master Directions were set aside.

5. On August 11, 2023, the resolution plans of the two companies were approved by the Adjudicating Authority under the Insolvency and Bankruptcy Code (IBC). The Resolution Applicant subsequently took over both the Companies.

6. Thereafter, the BOI, BOB and UBI, placing reliance on the same FAR authored by KPMG, issued show-cause notices afresh for declaration of the borrower-companies as fraud, serving copies thereof on the petitioner as well in the capacity of Promoter/Director of the said companies.

7. The petitioner has challenged the three show-cause notices issued by the said three banks. In WPA No. 28329 of 2023, the show-cause notice dated December 1, 2023 issued by the BOI has been challenged. The subject-matter of challenge in WPA No. 28980 of 2023 is the show-cause notice dated December 7, 2023 issued by the BOB and in WPA No. 236 of 2024, the show-cause notice dated December 20, 2023 issued by the UBI have been assailed.

8. The BOI and BOB, during pendency of the writ petitions, have issued letters dated January 2, 2024 and December 29, 2023 (both served on January 4, 2024), declaring the petitioner individually as "fraud" and "perpetrator of fraud" respectively, which have been brought on record by supplementary affidavits.

9. The subject-matter of challenge in all the three writ petitions is the said show-cause notices issued on the basis of the same FAR and, as a corollary, the decisions taken on the basis thereof by BOI and BOB.

10. Insofar as WPA No. 29027 of 2024 is concerned, the petitioners, who were Directors/Promoters of SREI Equipment Finance Limited, one of the borrower-companies, have challenged two show-cause notices dated November 28, 2023 and December 9, 2023 issued by the Small Industries Development Bank of India (SIDBI) also under the Reserve Bank of India (Frauds Classification and Reporting by Commercial Banks and Select FIs) Directions, 2016 (hereinafter referred to as, "the RBI Master Directions").

11. In the writ petitions challenging the show-cause notices issued by BOI, BOB and UBI, the challenge thrown against the show-cause notices is, inter alia, based on the premise that those have been issued specifically for declaring the

accounts of the borrower-companies, and not the petitioner, as fraud. Hence, learned senior counsel for the petitioner argues that the show-cause notices cannot be extended to cover declaration of the petitioner individually as fraud or perpetrator of fraud. In the show-cause notices, there is no allegation of impropriety, fraudulent conduct, etc. individually by the petitioner, in his capacity as Director or otherwise.

12. The second ground of challenge is that the Banks did not independently apply their minds but merely relied on the FAR for issuing the show-cause notices. The FAR does not make any specific allegation against the petitioner. There is no formation of opinion independently by the Banks against the petitioner. The petitioner cannot be made to suffer severe civil and penal consequences under the RBI Master Directions without any specific case being made out against the petitioner in his individual capacity.

13. Thirdly, learned senior counsel argues that the show-cause notices are an eye-wash since no effective opportunity has been given to the petitioner to respond to the allegations levelled therein. The documents on the basis of which the FAR was prepared were not supplied to the petitioner, which is a gross violation of natural justice. Both the borrower-companies are now under the control of the National Asset Reconstruction Company Limited, a Government entity where majority stakeholders are public sector banks and the balance held by private banks. Therefore, the replies given to the show-cause notices by the borrower-companies, which are now under the management of public and private banks, are bound to be adversarial to the petitioner. The time given to the petitioner to respond is inordinately and arbitrarily inadequate since the show-cause notices are based on an FAR which runs into hundreds of pages.

14. The show-cause notices require the petitioner to deal with indicative list of major observations and findings of the FAR as well as all other observations and findings in the FAR within a mere 15 days which is utterly inadequate, it is argued.

15. Moreover, the petitioner has no access to the records or documents of the borrower-companies since October, 2021. Therefore, such documents were required to be provided to the petitioner for the petitioner to effectively respond to them, which was not done.

16. Learned counsel places reliance on Indian Commodity Exchange Limited Vs. Neptune Overseas Limited and others, reported at (2020) 20 SCC 106 for the proposition that all possible documents were required to be provided to the noticee and the petitioner cannot be expected to run from pillar to post to secure the documents, particularly since the borrower-companies are under a new management where the petitioner has no role to play.

17. Learned senior counsel also submits that there has been a complete violation of principles of natural justice as mandated by the Supreme Court in State Bank of India and others Vs. Rajesh Agarwal and others, reported at (2023) 6 SCC 1.

18. It is next argued that mere supply of FAR does not enable the petitioner to respond to the show-cause notices. The FAR is inconclusive and full of disclaimers and could not form the basis for the show-cause notices. Despite an order by the NCLT to supply all documents to the petitioner, those were not provided till date to the petitioner.

19. Insofar as the declaration of the petitioner as "fraud" and "perpetrator of fraud" by BOI and BOB vide orders dated January 2, 2024 and December 29, 2023 respectively, it is argued that the impugned orders are in excess and wholly beyond the scope of the show-cause notices as well as de hors the RBI Master directions. It is argued that as per Clause 8.12 of the RBI Master Directions, only a borrower can be declared as fraud and not the petitioner, who is an individual entity.

20. The BOI concludes that the petitioner had been unable to prove that the transactions took place without his knowledge or consent, which finding is ex facie untenable since the corresponding show-cause notice had no allegation against the petitioner sufficient to find the petitioner personally guilty.

21. The impugned order of BOB is perverse and untenable, since the show-cause notice contains no allegation against the petitioner. The order cites "substantial evidence" against the petitioner without specifying such evidence to individually find the petitioner guilty.

22. It is reiterated that the FAR could not be the sole basis for "fraud" declaration without further independent application of mind. For this proposition, learned senior counsel relies on an unreported judgment of this Court bearing WPO/1776/2023 [Amit Kumar Kejriwal Vs. UCO Bank and Ors.] and another judgment of this Court in Prashant Bothra and Another Vs. Bureau of Immigrations and Others, reported at 2023 SCC OnLine Cal 2643.

23. In WPA No. 29027 of 2024, filed against SIDBI, an additional point argued by the petitioner is that although the impugned show-cause notice was solely based on an audit report and documents referred to in the audit report, neither the audit report nor the documents were provided to the petitioners.

24. There is no independent formation of opinion on the part of the authorities, it is argued. Apart from non-service of the audit report itself, the other points argued in SIDBI's case are adopted from the arguments made in connection with the other three writ petitions.

25. Learned senior counsel appearing for the respondents argue that the petitioner was the erstwhile Promoter and Managing Director of the borrower-companies and had substantial powers of management in the said companies which he undisputedly exercised during the period of review recorded in the FAR that is from April 1, 2016 to September 30, 2020.

26. During the period when the forensic audit was conducted, that is from April 1, 2021 to December 21, 2021, the petitioner continued to be in management of

the borrowers as the Board of borrowers was superseded only on October 4, 2021. Undeniably therefore, the petitioner was aware of the forensic audit being undertaken. The management of the borrowers, in fact, even submitted responses in the process.

27. The respondents, it is argued, have acted in compliance with their obligations under law and are duty-bound to follow the process under the Master Directions on fraud. The Master Directions mandate and oblige the respondents to ensure timely and effective reporting of frauds and to conduct appropriate audit in this respect.

28. Clause 8.12.1 and 8.12.2 of the Master Directions specifically provide that the penal provisions applicable to willful defaulters would apply to the fraudulent borrowers including Promoters, Directors and other whole-time Directors of the borrowers. Thus, Promoters and Directors of the borrowers come within the purview of the same despite the change in the management of the borrowers under the Insolvency and Bankruptcy Code (IBC), 2016 or otherwise.

29. Learned senior counsel appearing for the respondents argues that the petitioner has been granted effective opportunity of hearing under the show-cause notice. In the light of *Rajesh Agarwal* (supra) a copy of the FAR was made available to the petitioner and reasonable opportunity given to him to reply to the same. *Neptune Overseas Limited* (supra) is, therefore, not applicable.

30. The petitioner had access to the FAR which is the basis of the show-cause notices in all the three cases but yet had approached this Court on the baseless and hyper-technical ground of non-availability of further documents.

31. In case of SIDBI, which was the sole lender of one of the borrower-companies, the SEFL, the relevant extracts from the audit report considered by SIDBI formed a part of the show-cause notice. The petitioners could very well have sought the audit report; instead, they have approached this Court without any application of mind.

32. The respondents further argued that the writ petitions are premature and not maintainable before this Court. The petitioner ought to have given replies to the show-cause notices. At this stage, it would be premature for this Court to interfere, since no prejudice has been created against the petitioner.

33. The show-cause notices have been issued by Competent Authorities having jurisdiction and are not vague or unclear and do not blindly rely on the FAR.

34. A juristic person, it is argued, always acts on the basis of the actions of a natural person. Hence, since the show-cause notices were validly issued against the borrower-companies, the actions of the borrowers cannot be distinguished from the petitioner, who was the natural person in control of the borrowers during the relevant point of time for assessment under the FAR.

35. The conduct of the petitioner, it is contended, establishes that he is trying to

evade the process of law. The petitioner has neither replied to the show-cause notices nor has he made any request for the documents as sought in the writ petitions despite the earliest show-cause notice being issued on December 1, 2023.

36. Next, it is argued that the petitioner has already challenged the FAR in a civil suit while seeking the remedy to produce the purported report before this Court.

37. The petitioner is seeking to explore two forums, on one hand filing a civil suit bearing no. 242 of 2023 on or about December 5, 2023 inter alia seeking an injunction on the FAR, attempting to circumvent the process of law and on the other hand, preferring the present writ petitions. Thus, the petitioner is a habitual litigant who has filed several litigations against the Banks in various judicial fora to abuse the process of law and prevent any steps being taken in furtherance of the FAR. Thus, the respondents seek dismissal of the writ petitions.

38. Upon hearing learned counsel for the parties, it transpires that there are several components to the challenge, which are being dealt with consecutively hereinafter.

39. The respondents have objected to the writ petitions on the ground that those are premature, since the petitioner can take all his points in the replies to the show-cause notices. However, the window of interference at this stage is not totally shut. The writ court can exercise its powers of judicial review, though in an extremely limited context. It is to be ascertained by the writ court whether the principles of natural justice have been adhered to by the respondents while issuing the show-cause notices and whether an effective opportunity of hearing has been given to the noticee. Since the petitioner has not challenged the authority of the respondents to issue the notices as such, the said component is not required to be gone into.

40. One of the limbs of challenge to the show-cause notices is that no specific allegation has been levelled against the petitioner in the capacity of Promoter/Director in the show-cause notices. However, as rightly argued by the respondents, the borrower-companies are juristic persons and, as such, function through human agency. Even if no specific allegation is levelled against the petitioner, a natural person, implicit in the allegations made in the show-cause notices is that the persons in control and management of the company at the relevant juncture, that is, its management and particularly Directors, cannot wash off their hands regarding liability for the actions of the company. Since it is undisputed that the petitioner was a promoter/Director of the borrower-companies during the period covered by the allegations, separate allegations indicating the personal involvement of the Director is not necessary, at least at the stage of show-cause.

41. It has been held time and again by the Supreme Court that a First Information Report (FIR) is not an encyclopedia but merely narrates the offences alleged against the perpetrator. Although not an FIR, the show-cause notices

under the RBI Master Directions on fraud includes criminal elements. In fact, the Master Directions clearly stipulate that the nature of allegations therein is in tune with those enumerated in the Indian Penal Code. Hence, parity can be drawn between an FIR and a show-cause notice under the said Directions. Seen from such perspective, the show-cause notices did not merely quote the FAR but also indicated that the authors of the show-cause notices had independently made the allegations contained in the FAR against the petitioner. At this stage, it is an undisputed fact that the show-cause is primarily based on an opinion formation which, in turn, is premised on the FAR.

42. The FAR, it is to be noted, is merely a trigger for the formation of a preliminary opinion by the respondent-Banks in order to issue a show-cause notice under the Master Directions. Thus, at the stage of issuance of show-cause notices, it is not required to enter into the probative value of the FAR. Such probative value and evidentiary strength of the FAR can only be ascertained at the stage of final decision to declare the petitioner as a fraud.

43. The other aspect of the challenge taken out by the petitioner is that the documents relied on in the FAR have not been served. However, the FAR has been cited only as a basis of the show-cause notice and it would be impractical if the respondent-Banks are directed at the show-cause stage to serve on the petitioner the entire voluminous records which would substantiate the allegations against the petitioner. The records, taken together, may cover the relevant accounts and transactions over some years, which would run into thousands of pages. At the same time, a balance has to be struck between the interest of the petitioner and the principles of natural justice, to ensure that an effective opportunity of rebutting the allegations is given to the petitioner.

44. In this context, the decision of the Supreme Court in Neptune Overseas Limited (supra) would be a useful guide. It was held in the said judgment that there should not be a cussedness in handing over mere copies of documents when serious allegations and consequences which would flow to the respondents. Looking into the enormity of the contents of the show-cause notice running into 150 pages in the said case with documents panning 4,000 pages supporting it, a reasonable time was held to be required to be given.

45. However, in the said case, the Supreme Court did not direct a fresh show-cause notice to be served. The accused persons therein had already asked for certain specific documents which were directed to be supplied. In order to obtain clarity on the issue, the Supreme Court directed a list of documents sought for by the noticees therein to be supplied within two weeks from the date of the order. The said judgment was not in connection with the RBI Master Directions on fraud. However, inspiration can be drawn from the propositions laid down therein. In the present case, the FAR has been admitted to be served on the petitioner in the writ petitions pertaining to BOI, BOB and UBI.

46. A perusal of the show-cause notices indicates that there has not been a mere

paraphrasing of the contents thereof in the show-cause notices but the respondent-Banks have clearly enumerated the instances of alleged offences perpetrated by the borrowers. Annexures have been provided with the show-cause notices narrating clearly the specific transactions-in-question. Thus, there is no vagueness or lack of specifics in the allegations levelled in the show-cause notices. At the stage of issuance of a show-cause, the provisions of Order VI of the Code of Civil Procedure need not be followed as in a civil suit. The authorities need not go to the extent of following the directives of the Code as applicable to a full-fledged Civil Court trial, annexing all documents to be relied on in the plaint.

47. A show-cause notice under the RBI Master Directions is somewhere in-between an FIR in a criminal case and a plaint or a complaint petition in a civil suit or a criminal proceeding respectively.

48. Sufficient indications of the transactions-in-question have been given in the show-cause notices in the instant lis. Thus, those cannot be vitiated on the ground of vagueness or lack of clarity. The petitioner being admittedly a Promoter/Director of the borrower-companies at the relevant juncture, cannot be said stand altogether absolved of liability for the actions of the company during the said period. Thus, separate mention of the involvement of the petitioner in the offences allegedly perpetrated by the borrower-companies need not have been made in the show-cause notices.

49. In *Rajesh Agarwal (supra)*, the Supreme Court merely directed a copy of the audit report to be handed over to the borrower. It was observed that the principles of natural justice demand that the borrowers must be served a notice, given an opportunity to explain the conclusions of the FAR and be allowed to represent by the Banks/JLF before their account is classified as fraud.

50. In this context, the object and purpose of the RBI Master Directions is required to be looked into. The purpose of the Master Directions, framed under Section 35A of the Banking Regulation Act, 1949, as enumerated in the Master Directions, is to provide a framework to Banks enabling them to detect and report frauds early and taking timely consequent actions like reporting to the investigative agencies so that fraudsters are brought to book early, examining staff accountability and do effective fraud risk management. The Directions also aim to enable faster dissemination of information by the RBI to Banks on the details of frauds, unscrupulous borrowers and related parties based on Banks' reporting so that necessary safeguards/preventive measures by way of appropriate procedures and internal checks may be introduced and caution exercised while dealing with such parties by Banks.

51. Clause 2.2 provides that in order to have uniformity in reporting, frauds have been classified as thereunder, based mainly on the provisions of the Indian Penal Code.

52. Thus, although the provisions of the Indian Penal Code have been taken as a

basis, under no stretch of imagination does the Banks, under the Master Directions, act as criminal courts or conduct criminal trials, incriminating the defaulters of criminal offences. The result of the reporting by the Banks is not criminal conviction but is much lesser in magnitude. Hence, although the fraud classification has wide-ranging penal and civil consequences, affecting the business of the borrower-companies and its Directors and casting a stigma, the same cannot be equated to a criminal conviction or a Civil Court's decree.

53. Thus, a 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. In fact, throughout the Master Directions, stress has been laid on the pace of reporting, in order to protect the banking system from fraudsters. Clause 3.3 of the Master Directions, for example, deals with delays in reporting of frauds and mandates the Banks to ensure that the reporting system is suitably streamlined so that delays in reporting of frauds are avoided. The Banks are to fix staff accountability for delays.

54. Delay in reporting of frauds and consequent delay in alerting other Banks about the modus operandi and dissemination of information through Caution Advice/CFR against unscrupulous borrowers could result in similar frauds being perpetrated elsewhere, for which the Banks have been cautioned to strictly adhere to the time-frame fixed in the Master Directions for reporting of fraud cases to RBI. Failing the same, the Banks would be liable for penal action under Section 47(A) of the Banking Regulation Act, 1949.

55. Thus, time is the essence of the entire Master Directions, which lends an extremely summary character to the process involved therein.

56. Chapter VI of the Master Directions gives the guidelines for reporting frauds to the police/CBI and other investigative agencies. Thus, the classification of fraud has two purposes – first, to caution the banking system as to the modus operandi of fraudulent operatives and borrowers and secondly, to initiate proceedings against fraudsters by reporting the same to investigative agencies, which, in turn, might lead to convictions under the criminal laws of the country.

57. Clause 8.4 of the Master Directions speaks about early detection and reporting and highlights that at present the detection of frauds takes an unusually long time since banks tend to report an account as fraud only when they exhaust the chances of further recovery. Clause 8.4.2 says that the most effective way of preventive frauds in loan accounts is for banks to have a robust appraisal and an effective credit monitoring mechanism during the entire life-cycle of the loan account.

58. Clause 8.7 of the Master Directions provides incentive for prompt reporting by banks.

59. Thus, looking into the entire tenor of the Master Directions, it is evident that unnecessary reliance of formalities would tend to defeat and frustrate the very

purpose of enunciation of the said Directions.

60. Hence, what has to be ensured is that specific instances of allegations are to be mentioned in the show-cause notice, although all particular documents which are to be relied on and/or intricate details of the frauds alleged need not be given at the show-cause notice stage. The show-cause is a mere indicator of the allegations made against the borrower and its Director/management. It is to ensure that an effective opportunity of hearing is given to the accused.

61. Although the process of fraud declaration is summary under the Master Directions, the principles of natural justice have to be read into it as much as possible, since such principles are the basic features of Rule of Law and cannot be short shrifted.

62. However, there is no scope of any detailed trial and, as such, the procedure is to be streamlined.

63. Keeping such backdrop in view, in the light of the judgments rendered in *Rajesh Agarwal* (supra) and *Neptune Overseas Limited* (supra), the following procedure is, in the opinion of this Court, apt to serve the purposes of the Master Directions as well as to take care of the principles of natural justice, in particular the tenet of *Audi Alteram Partem* and ensure that an effective opportunity of rebutting the allegations is given to the borrower and its Directors.

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.)

65. A fortnight thereafter would be ample time to give reply to the show-cause 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.

66. Within a week from receiving such replies, the Banks can give an inspection of the documents, if extremely voluminous, and/or furnish copies of the particular documents which are sought by the borrower.

67. Within a further fortnight, if necessary, the noticee/borrower can be given an opportunity to file additional reply, in the light of the documents which have by now been inspected / served on them. Thereafter, a hearing shall be fixed by the bank on the basis of the reply.

68. Upon such hearing being concluded, a decision shall be taken whether or not to declare the borrower-company or its Director/promoter as "fraud" or "perpetrator of fraud". The aforesaid procedure would take, at the most, 8 weeks

in total to be concluded, which would be sufficient compliance of the Master Directions of the RBI. Thereafter, if declared as fraud/perpetrator of fraud, the same can be intimated by the Bank to the RBI.

69. The very first step has been complied with in the present cases by issuance of show-cause notices enumerating the exact allegations and serving a copy of the FAR which forms the basis of the show-cause notices. Thus, there is no scope or reason to set aside the show-cause notices as such.

70. However, the subsequent steps are required to be undergone to give an effective opportunity to the petitioner to rebut the allegations made against him and the borrower-companies.

71. Insofar as WPA No. 29027 of 2024 is concerned, the show-cause notice was served sans the audit report on which the bank relied. Hence, such show-cause notice cannot survive by itself, although specific allegations were made therein.

72. In view of the above short-comings on the part of the authorities in all the above cases, the consequential action of declaring the petitioner as "fraud" and "perpetrator of fraud" by BOI and BOB on January 2, 2024 and December 29, 2023 respectively cannot be sustained.

73. In the light of the above observations, the above four writ petitions are disposed of as follows:

74. WPA No. 28329 of 2023, WPA No. 28980 of 2023 and WPA No. 236 of 2024 are disposed of by directing the petitioner in each of those writ petitions to furnish his reply to the show-cause notices within a fortnight from date, indicating the documents which are required to be inspected by / furnished to the petitioner to effectively rebut the allegations made therein.

75. Upon such reply being given, the respondent-Bank in each of the writ petitions shall fix a date for giving inspection of the documents, if extremely voluminous; alternatively, the Banks shall furnish copies of the relevant documents to the petitioner within a further fortnight thereafter.

76. Upon being so served/given inspection, the petitioner shall, if necessary, give an additional reply in the light of such documents. Such additional reply shall be given within an outer limit of a fortnight from such inspection/furnishing of copies of documents.

77. The respondent-Bank in each of the cases shall thereafter fix an early date for hearing the petitioner. Upon such hearing being concluded, the respondent-Bank in each of the cases shall take a reasoned decision as to whether or not to declare the petitioner as "fraud" or "perpetrator of fraud". In the event the petitioner is declared to be fraud/perpetrator of fraud, the same shall be intimated in due course of law to the RBI and appropriate consequential steps under the Master Directions of the RBI shall be taken by the respondent-Bank in each of the cases.

78. The decisions declaring the petitioner as "fraud" and "perpetrator of fraud" by BOI and BOB on January 2, 2024 and December 29, 2023 respectively are hereby set aside.

79. WPA No. 29027 of 2024 is disposed of by directing the respondent-Bank to furnish a copy of the audit report, on which the impugned show-cause notice is based, to the petitioners within a week from date.

80. Upon getting the said audit report, the petitioners shall, within a fortnight thereafter, give reply to the show cause notice and indicate what documents are required by them to contest the allegations effectively. Upon such reply being given within a fortnight from service of the FAR, the Bank shall give inspection/ furnish copies of the relevant documents to the petitioners, preferably within a fortnight thereafter.

81. Within a fortnight subsequent thereto, if necessary, the petitioners shall give an additional reply by dealing with the documents so furnished/inspected.

82. Thereafter, the respondent-Bank shall give an opportunity of hearing to the petitioner and upon such hearing being concluded, pass a reasoned decision as to whether or not to declare the petitioners as "fraud" or "perpetrators of fraud". If so held, the respondent-Bank shall proceed further to report the matter to the RBI and take other consequential steps such as reporting to investigative agencies within the contemplation of the RBI Master Directions on frauds.

83. There will be no order as to costs. Urgent certified server copies, if applied for, be issued to the parties upon compliance of due formalities.