(2026) 02 P&H CK 1784

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 21653 Of 2024 (O&M)

Narinder Chugh APPELLANT

Vs

State Bank Of India RESPONDENT

Date of Decision : 11-02-2026

Acts Referred:
Constitution Of India, 1950 — Article 226, 227
Companies Act, 2016 — Section 161

Citation : (2026) 02 P&H CK 1784

Hon'ble Judges : Sheel Nagu, CJ;Sanjiv Berry, J

Bench : Single Bench

Advocate : Aalok Jagga, Harkirat S. Jagdev, Madhu Dayal

Final Decision : Disposed Of

Judgement

Sanjiv Berry, J

1. The instant Writ Petition has been preferred under Articles 226/227of the Constitution of India seeking writ in the nature of Certiorari, for quashing of minutes of meeting of Fraud Identification Committee dated 21.06.2024 (Annexure P-13) and its communication dated 12.07.2024 (Annexure P-12) issued by the respondent, whereby the petitioner was declared fraud, besides seeking quashing of all consequential proceedings initiated on account of such declaration.

2. Briefly stating the facts of the case are that the petitioner had rich experience on issues pertaining to international trade for over last two decades.

M/s Rama Krishna Knitters Private Limited was financed by consortium of four Banks and was being managed by Naresh Kumar Gupta. After his death on 13.11.2014 the said company went into financial trouble, Shalu Gupta wife of Naresh Kumar Gupta was other Director of the Company. On 27.11.2014, the then Directors of said Company introduced the credentials of the petitioner in the consortium meeting requesting him to provide requisite financial support for the revival of the Company. The Members of the Banks were satisfied, and the petitioner was called upon to provide requisite support to the Company for its survival. On 24.12.2014 the petitioner submitted the reasons of incipient sickness in the Company and the measures required for revival thereof to the consortium members vide letter (Annexure P-1). On 11.12.2014 the petitioner was made President of the Company vide (Annexure P-2) and on 01.02.2015 the petitioner became the Director of the Company with the sole aim to make attempt for revival of the Company. Earlier the petitioner was assured by the Punjab National Bank and State Bank of India to provide additional funding of Rs. 60 crores as a part of correction action plan but later State Bank of India (in short SBI) took decision on 27.02.2015 not to restructure the debt where as Punjab National Bank (in short PNB) vide letter dated 30.03.2015 had issued sanction letter wherein no additional funding was proposed till the joint documentation was done by all the Banks. Owing to this fact the petitioner did not extend his personal guarantee and the Directorship of the petitioner was also not confirmed in the next Annual General Meeting held on 25.06.2015 as per Section 161 of the Companies Act, 2016. As a matter for clarification, the petitioner wrote letters to the Banks that his offer to provide guarantees be treated as null and void in view of the no correction action plan having been agreed to be launched for the Company vide letters dated 27.01.2016 (Annexure P-3) and vide letter dated 24.02.2016 (Annexure P-4) the petitioner requested the Banks to return the guarantee. Thereafter, the loan account as well as the petitioner was declared as fraud vide letter dated 12.07.2024 (Annexure P-12) without serving him proper Show Cause Notice and claiming the act of the respondent Bank to be illegal, null and void, the instant petition has been preferred.

3. We have heard the Learned counsel for the parties and also perused the record with their assistance.

4. It is inter alia contended by the learned counsel for the petitioner that the loan account of the Company as well as the petitioner was wrongly declared as fraud vide letter dated 12.07.2024 (Annexure P-12) by the respondent. He contends that the minutes of meeting of Fraud Identification Committee dated 21.06.2024 (Annexure P-13) have been conducted in an illegal and arbitrary manner on the basis of which impugned letter dated 12.07.2024 (Annexure P-12) has been issued by the respondent without following due procedure laid down by the law. The respondent had acted against the petitioner in an illegal manner, against the principles of natural justice even without serving any proper Show Cause Notice upon the petitioner. He contends that infact the petitioner had not been a Promoter of the Company but was simply inducted as Director for a period of 4 months from February, 2015 to June, 2015 only for the purpose of revival of the Company M/s Rama Krishna Knitters Private Limited which had gone into financial instability after the demise of its Managing Director Naresh Kumar Gupta on 13.11.2014.

4.1 He submits that earlier a Show Cause Notice dated 17.11.2023 (Annexure P-8) was issued by the respondent Bank which was duly replied by the petitioner vide letter dated 25.12.2023 (Annexure P-9) and considering the same, respondent vide letter dated 09.05.2024 (Annexure P-11) had reversed the fraud classification of the account by respondent. However, the respondent again declared the loan account as fraud vide communication dated 12.07.2024 (Annexure P-12) without following the due procedure and as such is liable to be set aside. He contends that the grounds on which the fraud was declared by the respondents were not taken in the alleged Show Cause Notice and infact no specific Show Cause Notice was ever served to the petitioner before passing the impugned order dated 12.07.2024 (Annexure P-12) as the alleged Show Cause Notice dated 09.05.2024 (Annexure P-11) was not even addressed to the petitioner but was to the other Director Shalu Gupta and also the Company M/s Rama Krishna Knitters Private Limited. He has referred to the judgment of Hon'ble Apex Court passed in State Bank of India & Ors. Vs. Rajesh Aggarwal & Ors, 2023 (6) SCC 1; to argue that the impugned order dated 12.07.2024 (Annexure P-12) is liable to be set aside.

5. Per Contra learned counsel for the respondent-Bank submits that the petitioner had joined as a Director in the Company M/s Rama Krishna Knitters Private Limited and as the suspicious irregularities were observed in the account and as such the Bank had declared the loan account as fraud in accordance with the provisions of law by passing the speaking order in the shape of the proceedings of the Committee for Identification of Account as Fraud held on 21.06.2024 (Annexure P-13) which was also conveyed to the petitioner. He contends that each and every aspect of the petition raised by the petitioner and other Directors vide their specific replies dated 25.12.2023 and 22.05.2024 have been considered by the Committee and appropriate speaking order has been passed. She contends that there is no merit in the petition and prays for dismissal thereof.

6. After considering the respective arguments and perusing the record, it is observed that there is no dispute qua the fact that the Company M/s. Rama Krishna Knitters Private Limited had availed the loan facility from the consortium Banks comprising 04 Banks viz. Punjab National Bank (PNB), State Bank of India (SBI), Corporation Bank (now Union Bank of India) and Dena bank (Now Bank of Baroda) which was earlier managed by its Managing Director Naresh Kumar Gupta who expired on 13.11.2014. His wife Shalu Gupta was the other Director of the Company. The petitioner was inducted as Director in the Company for the purpose of providing requisite financial support for the revival of the Company. After meeting with the consortium Members and vide letter dated 11.12.2014 (Annexure P-2) the petitioner was made President of the Company. It is the contention of the petitioner that SBI and PNB had initially agreed to provide additional funds of 60 crores as part of correction action plan but later they refused, as a consequent in the next Annual General Meeting of the Company held on 25.06.2015 the Directorship of the petitioner was not confirmed and the

petitioner then wrote a letter dated 27.01.2016 (Annexure P-3) to the Banks intimating that his offer to provide guarantees be treated as null and void.

7. From the perusal of record it transpires that on account of financial instability, the first Show Cause Notice was issued by the respondent on 17.11.2023 (Annexure P-8) addressed to the Company M/s Rama Krishna Knitters Private Limited, Shalu Gupta and also to the petitioner. This Show Cause Notice was duly replied to by the petitioner on 25.12.2023 vide Annexure P-9. Thereafter, a communication dated 09.05.2024 (Annexure P-11) was sent by the respondent-Bank addressed to the Company as well as Shalu Gupta, intimating that " adhering to the principles of natural justice, we hereby inform that fraud classification of the account has been reversed".

8. It was further informed to the Company as well as Shalu Gupta vide communication dated 09.05.2024 (Annexure P-11) that the Bank is prima facie satisfied regarding there being signals of fraud in the account, which had been investigated and the loan account had been marked as "Suspected Fraud Account" due to the reasons mentioned therein and they were asked to show cause and submit their reply within 15 days thereon.

8.1 It is not disputed that Smt. Shalu Gupta Director did not reply to this Show Cause Notice dated 09.05.2024 (Annexure P-11).

9. Later the impugned communication dated 12.07.2024 (Annexure P-12) was sent by the respondent-Bank addressed to the Company M/s Rama Krishna Knitters Private Limited, Smt. Shalu Gupta and also to the petitioner. The relevant portion thereof reads as under:-

"Re: M/s Rama Krishna Knitters Private Ltd – Intimation Notice

We refer to the Show Cause Notice (SCN) issued by us vide our letter dated 17.11.2023 and 09.05.2024 and response of Director/Company vide letter dated 25.12.2023 and 22.05.2024.

2. We have taken cognizance of your response to our SCN and after due examination of the same it is concluded that sufficient reasons have not been provided by you to explain the non-adherence to the agreed terms and conditions of the loan documents or the irregularities observed in the conduct of your account to the satisfaction of the Bank.

3. Accordingly, the Bank has decided to classify your loan account as Fraud as per the enclosed Speaking Order.

4. The Bank Shall be taking further course of action to report the account/your name to the Reserve Bank of India (RBI) as per the directions contained in the RBI Master Directions/ Circulars issued time to time, in this regard."

9.1 Vide the aforesaid communication Bank had declared the loan account as Fraud on the basis of the proceedings of the meeting of Fraud Identification Committee held on 21.06.2024 (Annexure P-13).

9.2 The perusal of the impugned communication (Annexure P-12) would reveal that the declaration of loan account as Fraud was based by the respondent Bank on the Show Cause Notice dated 17.11.2023 and 09.05.2024 and also to the response of the Director/Company vide letters dated 25.12.2023 and 22.05.2024.

9.3 The perusal of record shows that Show Cause Notice dated 17.11.2023 (Annexure P-8) was addressed to the company M/s Rama Krishna Knitters Private Limited, Shalu Gupta and the petitioner.

9.4 while, the Show Cause Notice dated 09.05.2024 (Annexure P-11) was addressed to Company M/s Rama Krishna Knitters Private Limited and Shalu Gupta, only.

9.5 Reply dated 25.12.2023 (Annexure P-9) was submitted by petitioner alone.

9.6 The above documents clearly show that before passing the impugned order dated 12.07.2024 (Annexure P-12) the only Show Cause Notice addressed to the petitioner happens to be the one dated 17.11.2023 (Annexure P-8).

10. It is apt to mention here that the Show Cause Notice dated had been replied to by the petitioner vide letter dated 25.12.2023 (Annexure P-9). Thereafter a communication dated 09.05.2024 (Annexure P-

11) was received by the company and also to the other Director Shalu Gupta wherein it was specifically mentioned that the fraud classification of the account has been reversed. It clearly shows that the earlier fraud classification vide (Annexure P-8) had been reversed by the respondent Bank and it is mentioned therein that this had been done consequent to the reply dated 25.12.2023 (Annexure P-9) filed by the petitioner.

10.1. This being so, it is evident that no fresh Show Cause Notice has ever been served upon the petitioner by the respondent Bank before passing of the impugned order dated 12.07.2024 (Annexure P-12), as it is abundantly clear from the communication dated 09.05.2024 (Annexure P-11) that the same was addressed only to the Company M/s Rama Krishna Knitters Private Limited as well as other Director Shalu Gupta, whereas the name of the petitioner does not find mention therein.

10.2. Admittedly neither there is any Show Cause Notice issued to the petitioner by the respondent except for 17.11.2023 (Annexure P-8) nor any other reply by the petitioner was filed except dated 25.12.2023 (Annexure P-9) leading to inference that the impugned order was passed by the respondent Bank declaring the account as fraud without giving appropriate Show Cause Notice and also opportunity of being heard to the petitioner.

10.3. Further perusal of record would also reveal that the loan account as well as the petitioner were declared as fraud by the respondent Bank not on the grounds taken in the first Show Cause Notice dated 17.11.2023 (Annexure P-8) which was duly replied to by the petitioner vide (Annexure P-9) dated 25.12.2023. The conjoint reading thereof with the impugned order dated 12.07.2024 (Annexure P-12) and the proceedings of the meeting of Fraud Identification Committee (Annexure P-13) would strongly reflect that the grounds/reasons taken by the Bank in support of the decision of Committee, namely, leasing out the factory of the corporate debtor to M/s Million Exporter Pvt. Ltd without permission of Banks and also regarding the alleged diversion of funds, was nowhere mentioned in the Show Cause Notice dated 17.11.2023 (Annexure P-8) given to the petitioner by the respondent Bank.

10.4. Since such grounds, on the basis of which the Committee allegedly took the decision dated 12.07.2024 (Annexure P-12) were not communicated to the petitioner by way of Show Cause Notice, there was no question of it being replied to by the petitioner in any manner and basing its decision on such grounds, which were never apprised to the petitioner by the Fraud Identification Committee, would strongly suggest that the principles of natural justice have been blatantly violated by the respondent Bank in issuing the impugned Fraud declaration vide Annexure P-12. There is clear denial of opportunity of being heard to the petitioner and thereby a violation of cardinal principle of natural justice, audi alteram partem.

10.5. Another factor which has not been taken care of happens to be that the allegations in the said Show Cause Notice concern to the Financial Year 2012-2013, but admittedly, the petitioner was not having any concern with the Company M/s Rama Krishna Knitters Private Limited at the relevant period, which he joined as Director only for a period of 4 months from February, 2015 to June, 2015 after demise of its Managing Director Naresh Kumar Gupta allegedly for the purpose of revival of the financial stability of the Company as is evident from Annexure P/8A.

11. In the backdrop of above facts and circumstances, it is worth mentioning that the Hon’ble Apex Court in Rajesh Aggarwal’s case (supra) has held that the principles of natural justice would be read in Clause 8.9.4 and 8.9.5 of the Master directions on fraud classification issued by Reserve Bank of India (Frauds Classification and Reporting by Commercial Banks and Select FIS) Directions, 2016, therefore, such adverse action of declaring an account fraud cannot be taken without affording an opportunity of hearing. The relevant portion of the judgment reads as under:-

“ xxx xxx xxx

79. In light of the legal position noted above, we hold that the rule of audi alteram partem ought to be read in Clauses 8.9.4 and 8.9.5 of the Master Directions on Fraud. Consistent with the principles of natural justice, the lender banks should provide an opportunity to a borrower by furnishing a copy of the audit reports and allow the borrower a reasonable opportunity to submit a

representation before classifying the account as fraud. A reasoned order has to be issued on the objections addressed by the borrower. On perusal of the facts, it is indubitable that the lender banks did not provide an opportunity of hearing to the borrowers before classifying their accounts as fraud. Therefore, the impugned decision to classify the borrower account as fraud is vitiated by the failure to observe the rule of audi alteram partem. In the present batch of appeals, this Court passed an ad-interim order restraining the lender banks from taking any precipitate action against the borrowers for the time being. In pursuance of our aforesaid reasoning, we hold that the decision by the lender banks to classify the borrower accounts as fraud, is violative of the principles of natural justice. The banks would be at liberty to take fresh steps in accordance with this decision.

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E. Conclusion

81. The conclusions are summarized below:

i. No opportunity of being heard is required before an FIR is lodged and registered;

ii. Classification of an account as fraud not only results in reporting the crime to investigating agencies, but also has other penal and civil consequences against the borrowers;

iii. 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;

iv. 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;

v. 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;

vi. 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; and

vii. 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”.

12. In the light of the above discussion, it is observed that there is blatant non-adherence to the principles of audi alteram partem in the acts of respondent Bank in issuing the impugned classification of account as ‘fraud’ since no opportunity of being heard was ever afforded to the petitioner before passing the same and on the basis of judgment of Hon’ble Apex Court passed in Rajesh Aggarwal’s case (supra), the said declaration of fraud, so far as the account of the petitioner is concerned, as has been so declared vide communication dated 12.07.2024 (Annexure P-12) based on (Annexure P-13), is liable to be set aside.

13. Resultantly, the instant petition is disposed of thereby setting aside the impugned communication dated 12.07.2024 (Annexure P-12) issued by the respondent whereby the petitioner has been declared ‘fraud’ on the basis of meeting of Fraud Identification Committee dated 21.06.2024 (Annexure P-13). However the respondent Bank is at liberty to proceed afresh, in accordance with law, after affording due opportunity of being heard to the petitioner.

14. Misc. Application if any, shall also stands disposed of.

