(2016) 11 MAD CK 0030

In the Madras High Court

Case No : W.P. No. 11539 of 2016 and W.M.P. No. 9966 of 2016

R.S. Lenin APPELLANT

Vs

Zonal Manager, M/s. Bank of Maharashtra RESPONDENT

Date of Decision : 07-11-2016

Acts Referred:

Citation : (2017) 1 MLJ 230

Hon'ble Judges : Mr. B. Rajendran, J.

Bench : Single Bench

Advocate : Mr. S.P. Chokalingam, Advocate, for the Respondent No. 1 to 3; Mr. Praveen Alexander, Advocate, for the Petitioner

Final Decision : Dismissed

Judgement

Mr. B. Rajendran, J. - The writ petition has been filed challenging the Cautionary list issued by the second respondent M/s Bank of Maharashtra vide letter Ref.No.AX1/Cr.Mon/Third Party Entity/2015/16, letter dated 21.11.2015 and consequently direct the respondents to include the name of the petitioner in the panel of valuers.

2. According to the petitioner, he was initially appointed as panel Valuer for a period of three years. Normally, he was entitled for extension for further period. In the meanwhile, by communication dated 21.11.2015 addressed to Indian Bank''s Association, Mumbai he was put on cautionary list, as if he has done valuation without seeing the documents properly. According to him, this affects his Fundamental Right. In fact, by virtue of this, he would loose to be a panel valuer in any other bank and he is likely to be delisted. According to him, even this order was not addressed to him. He obtained the details through Right to Information Act and based on the same he has come forward with the present writ petition challenging the communication issued by the Bank of Maharashtra to the Indian Bank''s Association.

3. The learned counsel for the petitioner would submit that no notice was issued

before cancellation of his original appointment. In this connection, he relied on a decision of the Hon''ble Supreme Court for the proposition that before blacklisting there should be notice.

4. The learned standing counsel appearing for the respondent bank, though has not filed counter, he would mainly contend that it is not a communication issued to the petitioner, it was an official communication between the respondent bank and the Indian Bank''s Association, wherein, they have given information regarding the misdeeds done by certain Valuers and Advocates including the petitioner herein.

5. According to the learned standing counsel for the respondent bank, the petitioner has not even looked into the documents properly and he simply followed the information given by the borrower. He simply followed the valuation given by the borrower. The learned standing counsel would further contend that the relationship between the petitioner and the respondent bank is purely on contractual basis and the petitioner cannot seek a Mandamus to continue his name in the panel of valuers and seeks for dismissal of the writ petition.

6. Heard both parties.

7. At the outset the petitioner''s challenge is not maintainable. The petitioner challenged the official communication between a bank and its association viz., Indian Banks Association. A perusal of the communication would go to show that no order has been passed against the petitioner either cancelling his contract or debarring or delisting or blacklisting him in any other bank or institution. In fact for the legal notice issued by the petitioner, the respondent bank has given a detailed reply dated 05.03.2016, in which it has been pointed out as follows:

"It is the fact of the matter your client had not seen the documents meant for valuation properly and thoroughly. Your client even without verifying whether planning permission has been accorded for the property by the concerned authorities has given the valuation report. This apart, your client has given valuation report on the basis of forged documents, and without verifying the originals. Your client pretty well knows that there are minimum prescribed standards and norms that he has to follow before giving a valuation report. Your client cannot turn a blind eye to those norms and later on falsely contend that he had simply followed the instructions given by Bank of Maharashtra, Ashok Nagar Branch, and that the valuation report was given as per the requirement of the borrower. My client stoutly denies that its Ashok Nagar branch had given instructions to give valuation report in a manner contended by you. Assuming, but not admitting that if Ashok Nagar Branch had given instructions to give valuation report in a particular manner, is it not our client''s responsibility and duty to bring the same to the knowledge of my client ? Your client has not done that, which shows that the allegation against the branch is only frivolous."

8. The respondent has also made it clear that they can depanel any valuer without assigning any reason. The petitioner''s contention that notice is requires

is unwarranted. After all, he is a person employed on contractual basis and it is for the bank to either continue him in the panel or empannel him and they need not assigning any reason for that. He would further submit that the respondents are fortified by a Division Bench decision of the Kerala High Court in Vijayaraghavan v. Travancore Devaswom Board reported in ILR 2006 (3) Kerala 34. That was a case relating to appointment of Standing Counsel. The Division Bench of Kerala High Court following the decision of the Hon''ble Supreme Court has held in paragraphs 14 and 15 as follows:

"14. What the society expects from the legal profession is succinctly stated by the Apex Court in In Re: Sanjiv Datta (1995) 3 SCC 619 : 1995 (1) KLT (SC) (SN) 48 P.36 and it reads as follows:

The legal profession is a solemn and serious occupation. It is a noble calling and all those who belong to it are its honourable members. Although the entry to the profession can be had by acquiring merely the qualification of technical competence, the honour as a professional has to be maintained by its members by their exemplary conduct both in and outside the court. The legal profession is different from other professions in that what the lawyers do, affects not only an individual but the administration of justice which is the foundation of the civilised society. Both as a leading member of the intelligentsia of the society and as a responsible citizen, the lawyer has to conduct himself as a model for others both in his professional and in his private and public life. The society has a right to expect of him such ideal behaviour. It must not be forgotten that the legal profession has always been held in high esteem and its members have played an enviable role in public life. The regard for the legal and judicial systems in this country is in no small measure due to the tireless role played by the stalwarts in the profession to strengthen them. They took their profession seriously and practised it with dignity, deference and devotion. If the profession is to survive, the judicial system has to be vitalised. No service will be too small in making the system efficient, effective and credible. The casualness and indifference with which some members practise the profession are certainly not calculated to achieve that purpose or to enhance the prestige either of the profession or of the institution they are serving. If people lose confidence in the profession on account of the deviant ways of some of its members, it is not only the profession which will suffer but also the administration of justice as a whole. The present trend unless checked is likely to lead to a stage when the system will be found wrecked from within before it is wrecked from outside. It is for the members of the profession to introspect and take the corrective steps in time and also spare the courts the unpleasant duty. We say no more.

15. According to the petitioner he had suggested the alternate methods to "advance system" to avoid chances of corruption and it was for that reason that he was removed from the panel. Since the reasons for removal as stated in the counter affidavit are not at all correct in the light of the reply affidavit and there is no other reason suggested we cannot find fault with the petitioner if he

entertained the feeling that he was removed from the panel for the reasons stated in para 3 of the Writ Petition. But we do not want to enter into a definite finding on this issue as we find that this Writ Petition is otherwise liable to be dismissed."

9. The judgment relied on by the petitioner relates to blacklisting and no doubt for blacklisting there must be notice because it cast a stigma on the reputation of the person and it is attended with civil consequence. Here, in this case, the petitioner has not even able to bring a letter stating that the respondent bank has blacklisted him. Therefore, the petitioner has not done his work properly. The respondent has correctly stated that no notice is required for delisting him in their panel.

10. In view of the above, the writ petition fails and the same is accordingly dismissed. Consequently, the connected miscellaneous petition is closed. No costs.