

Court No. - 5

Case :- WRIT - A No. - 8536 of 2025

Petitioner :- Rohit Dahiya

Respondent :- Union Of India And 3 Others

Counsel for Petitioner :- Devansh Misra

Counsel for Respondent :- A.S.G.I.,Anadi Krishna
Narayana,Anant Kumar Tiwari

Hon'ble Saurabh Shyam Shamsbery,J.

1. Sri Devansh Misra, learned counsel for petitioner, Sri Anant Kumar Tiwari, learned counsel for Union of India and Sri V.K. Singh, learned Senior Advocate assisted by Sri Ashok Kumar Lal, learned counsel for other respondents are present.

2. Petitioner was initially appointed on a post of Assistant Manager in Bank of Baroda, Naveen Mandi, Kashipur Branch and later on, he was promoted as Manager and took charge as Branch Head at Maswasi Town Branch and subsequently at Rahmatganj Branch in District Rampur, Moradabad Region.

3. According to averments made in present writ petition, during course of service as Branch Head, certain complaints were made against the petitioner alleging that he has issued overdraft facility, loans and cleared certain cheques for payment without approval from different customers and a disciplinary proceedings were initiated and petitioner was suspended. Later on, by interference of this Court, suspension order was set aside, however, no further disciplinary proceedings were commenced. It is further case of petitioner that even thereafter, some complaints were made before RBI Ombudsman alleging that amount of Rs. 45,00,000/- were debited from complainant's account without her permission or without

any cheque issued by her. An award dated 25.03.2025 was passed. Said award was thereafter challenged in a writ petition before this Court wherein an interim order was passed.

4. The petitioner has approached this Court since respondent bank has initiated proceedings to classify him as fraud in terms of RBI Master Direction on Fraud Risk Management in Commercial Banks including Regional Rural Banks and All India Financial Institutions dated 15.07.2024. The Master Direction provides for classification of fraud of a person or entity and it has civil and criminal consequences also.

5. In aforesaid circumstances, a show cause notice was issued to petitioner on 29.04.2025 alleging that while working as Branch Head at Maswasi Town Branch and Rahmatganj Branch in District Rampur from 04.10.2021 to 06.02.2024, certain suspicious activities were observed in the accounts of customers. In show cause notice, various irregularities were mentioned. For reference, said irregularities are mentioned below :-

“(i) Unauthorized debit from accounts using Form No. 288 and 290 without the consent of the account holder;

(ii) Unusually large value transaction being done in the account of the wife of the petitioner;

(iii) Certain violation of discretionary lending powers while acting as the Head of the Branch;

(iv) Loans sanctioned without appraisal note, PSR, Pre-sanctioned/post sanctioned;

(v) FIR/police complaints registered by the customers under Section 420, 467, 468, 471 and 406 of IPC;

(vi) Complaints lodged by the customers alleging adoption of malpractices by the petitioner while acting as the Branch Head; and

(vii) More than 50% of the advance portfolios of the said Branches had been turned into NPA

6. Petitioner has submitted his reply to allegations by a letter dated 12.05.2025 wherein he has made explanation and denied alleged irregularities. In terms of Master Direction issued by RBI dated 15.07.2024, respondent bank has to follow a procedure prescribed therein and accordingly matter was considered by a Committee viz. Zonal Office Committee for Classification of Fraud (ZOCCF) and accordingly, a report dated 04.06.2025 was submitted with a recommendation to declare the incident as fraud. On basis of aforesaid report, impugned order dated 04.06.2025 was passed whereby actions of petitioner were declared fraudulent under category of misappropriation of funds and criminal breach of trust and unauthorized transaction. For reference, relevant part of impugned order is quoted below :-

“On receipt of your above reply a meeting of Zonal Office Committee for Classification of Fraud (ZOCCF) was convened today i.e. 04.06.2025 and your reply dated 12.05.2025 was presented before the said Committee for their consideration and deliberation. The Committee has carefully gone through your above reply and before arriving at any decision, ZOCCF has considered all aspects including recommendations of QRT at Regional Office, Moradabad, internal investigations, Show Cause Notice (SCN) issued to you, and its reply dated 12.05.2025 submitted by you.

The Committee deliberated and concluded that your explanations have been found to be inconsistent, contradictory, and unsupported by any credible documentation or evidence. After a thorough examination of your submissions, the investigation reports, and supporting records, the ZOCCF has resolved that your involvement in the irregularities outlined in our Show Cause Notice No. ZO/Bareilly/Risk/2025-26/05, dated 29/04/2025 is conclusively established. You have been found to have committed misappropriation of funds, criminal breach of trust, as well as acts of cheating and forgery during your tenure as

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Branch Head at our Maswasi Town and Rahmalganj Branches in the Moradabad Region.

Your reply merely constitutes a denial of the allegations in the Show Cause Notice (SCN) without providing any supporting evidence or documentation. Hence you failed to prove your innocence beyond doubt, therefore your reply dated 12.05.2025 is not acceptable.

In view of the above findings the ZOCCF in its meeting held on 04.06.2025, has resolved to declare your aforesaid actions as "Fraudulent" under the category of "Misappropriation of funds and criminal breach of trust and unauthorized transactions.

The same is hereby communicated to you in compliance of RBI Master direction on Fraud Risk Management in Commercial Banks (including RRB's) and AIFIs, RBI/DOS/2024-25/118 DOS CO.FMG.SEC.No. 5/23.04.001/2024-25 dated 15.07.2024

The bank reserves the right to take further action as deemed necessary as mentioned in Show Cause Notice (SCN) or otherwise in terms of above Master Circular of RBI, dated 15.07.2024

These all are duly reviewed by Zonal Office Committee for Classification of Fraud (ZOCCF)."

7. Sri Devansh Misra, learned counsel for petitioner submits that RBI has issued Master Direction of Fraud Risk Management in Commercial Banks and All India Financial Institutions by a communication dated 12.07.2024 wherein a detailed procedure is prescribed under Chapter 2 which includes issuance of detailed show cause notice, a reasonable period of not less than 21 days to be provided to respond it and a reasoned order shall be served conveying decision of the bank regarding declaration of classification of account as fraud or otherwise as well as it must contain relevant facts/circumstances relied upon and submissions made against show cause notice and reason for classification of fraud or otherwise. Relevant part of Clause 2.1.1 and 2.1.2 of Master Direction of RBI are quoted below :-

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“2.1.1 There shall be a Board approved Policy on fraud risk management delineating roles and responsibilities of Board / Board Committees and Senior Management of the bank. The Policy shall also incorporate measures for ensuring compliance with principles of natural justice in a time-bound manner which at a minimum shall include:

2.1.1.1 Issuance of a detailed Show Cause Notice (SCN) to the Persons, Entities and its Promoters / Whole-time and Executive Directors against whom allegation of fraud is being examined. The SCN shall provide complete details of transactions / actions /events basis which declaration and reporting of a fraud is being contemplated under these Directions.

2.1.1.2 A reasonable time of not less than 21 days shall be provided to the Persons /Entities on whom the SCN was served to respond to the said SCN.

2.1.1.3. Banks shall have a well laid out system for issuance of SCN and examination of the responses / submissions made by the Persons /Entities prior to declaring such Persons/Entities as fraudulent.

2.1.1.4 A reasoned Order shall be served on the Persons / Entities conveying the decision of the bank regarding declaration /classification of the account as fraud or otherwise. Such Order(s) must contain relevant facts/circumstances relied upon, the submission made against the SCN and the reasons for classification as otherwise. fraud or

2.1.2 The Fraud Risk Management Policy shall be reviewed by the Board at least once in three years, or more frequently, as may be prescribed by the Board.”

8. Learned counsel for the petitioner, by referring impugned order, submits that though it is purportedly a reasoned order but the requirement as mentioned in above referred clauses are not evident as no reasons or consideration of reply submitted by petitioner was mentioned.

9. Learned counsel for the petitioner further submits that report of ZOCCF was not provided to petitioner, therefore, petitioner is not able to respond to said report.

10. Learned counsel has placed reliance upon a judgment of Supreme Court in **State Bank of India and others vs. Rajesh Agarwal and others, (2023) 6 SCC 1** and **M/s Shree Saraiwwalaa AGRR Refineries Ltd. vs. Union of India, Special Leave to Appeal No. 762/2022 decided on 24.01.2022** to emphasize that since classification of an account as fraud not only results in reporting the crime to investigating agencies but it has other penal and civil consequences, therefore, application of audi alterem partem is a mandatory part of proceedings under Master Direction.

11. Per contra, Sri V.K. Singh, learned Senior Advocate appearing for respondents submits that procedure prescribed in RBI Master Direction were substantially followed. Notice was served upon the petitioner, who has submitted his reply, which was considered by ZOCCF and report thereof was submitted. By the impugned order, outcome of said report was communicated to petitioner by a reasoned order.

12. Learned Senior Advocate further submits that on basis of said report, still no penal or civil action has been taken. He further submits that a complaint was made and now CBI has taken over the complaint and an FIR has been lodged against the petitioner also. Therefore, challenge to impugned order has no legal basis.

13. Learned Senior Advocate refers a judgment passed by Delhi High Court in **S.K. Aggarwal Ex. Brig. vs. Union of India and others, Writ Petition (C) No. 15557/2004 decided on 24.08.2007** and **Union of India and others vs. E.G. Nambudiri, 1991(3) SCC 38** to emphasize that it is fairly well settled that so long as the contemporaneous

official record bears the reasons on the basis of which the authority passing the order has arrived at this conclusion, it does not matter whether the same were enumerated in the formal expression of that order.

14. Heard learned counsel for parties and perused the records.

15. As referred above, on basis of a complaint in terms of Master Direction on Fraud, a notice was issued to petitioner on above referred serious allegations of fraud. It is also not disputed that petitioner has submitted a detailed reply to it and according to procedure prescribed, matter was considered by ZOCCF though undisputedly its report and decision dated 04.06.2025 was not communicated to petitioner and only legal consequence of it was communicated to petitioner by impugned order wherein a recommendation to declare action of the petitioner as “Fraudulent” was made.

16. Court is of considered view that said report of ZOCCF ought to have been served upon petitioner so that petitioner may take a legal remedy against said report. Court is also of the view that if ZOCCF has taken a decision and made a recommendation and was communicated by impugned order, all procedure prescribed in Master Direction are substantially complied with.

17. This case could be disposed of with a direction to respondents to supply a copy of report of ZOCCF to petitioner with liberty to take a legal remedy if so advised, however, Court takes note of subsequent undisputed events that CBI has taken note of complaint against petitioner and others and an FIR has already been lodged on 24.06.2025 against petitioner and others under Section 61(2) and 318 of B.N.S. and 13(2) r/w 13(1)(a) of P.C. Act and from reading of contents thereof, report of ZOCCF does not appear to be only reason to

lodge FIR as well as CBI is under a legal obligation to conduct independent investigation, therefore, without interfering with impugned order, which has still not acted upon i.e. no penal or civil action is taken, therefore, this writ petition is **disposed of** with an observation that respondent-bank will provide report of ZOCCF to petitioner and further CBI will conduct independent and fair investigation without being much influenced by the report of ZOCCF.

Order Date :- 2.7.2025

N. Sinha