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

\+ W.P.(C) 7034/2025

DEVANG PRAVIN MODY .....Petitioner

Through: Mr. Pranjit Bhattacharya and Ms. Salonee Shukla, Advs.

versus

BANK OF INDIA .....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

<u>O R D E R</u>

% 22.05.2025

<u>CM APPL. 31741/2025 & CM APPL. 31742/2025 *(exemption)*</u>

1. Allowed, subject to all just exceptions.

2. The applications stand disposed of.

<u>W.P.(C) 7034/2025 & CM APPL. 31740/2025 *(by the petitioner under Section 151 CPC seeking interim relief)*</u>

3. The present petition has been filed seeking following reliefs:

> *"A. Issue a writ of Certiorari or any other appropriate writ, order or direction quashing the Impugned Order dated 17.04.2025 bearing Ref No.NDLCB/RCF/2025-26/25 issued by the Respondent Bank as illegal, invalid and null and void;*
>
> *B. Issue a Writ of Certiorari or any other appropriate writ, order or direction quashing any steps/action taken by the Respondent Bank pursuant to the Impugned Order dated 17.04.2025 bearing Ref. No.NDLCB/RCF/2025-26/25."*

4. The grievance ventilated in the present petition is with regard to the

impugned order dated 17.04.2025 passed by the respondent/Bank of India whereby the bank decided to classify the petitioner's status as 'fraud/defaulter'.

5. Mr. Pranjit Bhattacharya, learned counsel appearing on behalf of the petitioner invites attention of the court to the impugned order, more particularly to para 5 thereof, to contend that it is recorded in the impugned order itself that show cause notice dated 02.01.2025 was issued to the present petitioner, however, the same was returned undelivered. He, therefore, contends that there is no service of show cause notice to the petitioner in present case.

6. Referring to para 6, he submits that impugned order refers to written submission given by petitioner in response to show cause notice and conclusion arrived at by the Fraud Monitoring Committee based on such written submission. He contends that at no point of time, any response to the alleged show cause notice was given by the petitioner.

7. Elaborating further, he submits that since show cause notice was never delivered to petitioner, therefore, there was no occasion for the petitioner to have given his reply or written submission to the same.

8. He, therefore, submits that findings recorded in para 6 of impugned order depicts non-application of mind on the part of the authority passing the impugned order.

9. He further submits that a Resolution Plan under the Reserve Bank of India's Prudential Framework for Resolution of Stressed Assets, 2019 with regard to 'Reliance Commercial Finance Ltd.' was approved finally by the Hon'ble Supreme Court and a Resolution Implementation Memorandum dated 30.09.2022 was entered into between the said company, as well as, the

persons set out in Schedule I – Part A to the said memorandum, which also includes the respondent bank.

10. He submits that the Resolution Implementation Memorandum has already been given effect to. He invites attention of the court to Clause 4.1.4 of the said memorandum, the relevant part of which reads thus:

> ***"4. CLOSING ACTIONS***
> *In order to fully implement the Resolution Plan, the Parties unconditionally undertake that the following actions shall be completed after receipt of the RBI Approval within applicable timelines mentioned under each of the actions below (if any) "**Closing Actions**":*
> *xxx xxx xxx*
> *4.1.4 The Lenders and NABARD shall, within thirty days from the receipt of RBI Approval, have withdrawn all notices, proceedings, complaints, claims, litigation, legal proceedings, and suits that one or more of them may have or have filed or served in connection with the Loans, the Finance Documents, and the Lenders Security (as the case may be), along with withdrawal of all restraints, prohibitions, restrictions, stay or injunctions against RCFL, its new promoters, new directors, officers (not being erstwhile key managerial personnel), and employees from dealing with its assets pursuant to any legal cases or proceedings before any court, tribunal or any other legal forum, absolutely and forever on 'with prejudice' basis, in accordance with the terms of the Resolution Plan.* ***Further within three months from the receipt of RBI Approval, the Lenders and NABARD shall ensure that the red-flag classification, fraud classification, and willful defaulter classification of RCFL, its directors and officers shall be removed at the sole cost and expense of the Lenders, including removal from the database of CIBIL, CRILIC or all other credit information companies and hand over to the Resolution Applicant, documentary evidence in this regard."***
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> *(emphasis supplied)*

11. He submits that since the resolution plan has already been implemented, therefore, the respondent bank ought not to have proceeded

against the present petitioner.

12. He further submits that the petitioner had worked with the aforesaid company only from 24.04.2017 till 31.12.2018 i.e. for a period of 18 months, initially as Additional Director/CEO and thereafter, as Executive Director. Drawing attention of the Court to para 2 of the impugned order, he submits that the credit facility which has been referred therein pertains prior to the period spent by the petitioner in the said company.

13. Further referring to the impugned order, he submits that the account of the company turned Non-Performing Asset (NPA) only on 30.11.2019 after the petitioner had already resigned from his position as Executive Director.

14. In view of the above, issue notice to the respondent bank by all permissible modes.

15. Let counter-affidavit be filed within a period of four weeks from the date of service.

16. Rejoinder thereto, if any, be filed within two weeks thereafter.

17. Re-notify on 22.09.2025.

18. In the meanwhile, having regard to submissions made by Mr. Bhattacharya, which *prima facie* appear to have substance, the operation of the impugned order dated 17.04.2025 shall remain stayed till the next date.

VIKAS MAHAJAN, J

MAY 22, 2025/aj