



\$~42

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

+ W.P.(C) 8854/2025

MR MARKAND ADHIKARI

.....Petitioner

Through: Mr. J. Sai Deepak, Sr. Adv. with Mr.
Varun Garg, Mr. Prashant Jain, Ms.
Nispreha Mittal, Mr. Nipun Gupta,
Mr. Avinash Sharma and Mr.
Abhishek, Advs.

versus

PUNJAB NATIONAL BANK AND & ANR.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

%

02.07.2025

CM APPL. 37846/2025 & CM APPL. 37847/2025 (exemptions)

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

W.P.(C) 8854/2025 & CM APPL. 37845/2025 (under Section 151 CPC filed by petitioners seeking issuance of Ex-Parte Ad-Interim directions)

3. The present petition has been filed to assail the impugned order dated 28.05.2025 passed by the Review Committee of the respondent bank whereby the petitioner has been declared a 'wilful defaulter'.
4. Mr. J. Sai Deepak, learned senior counsel appearing on behalf of the petitioner submits that there is a complete violation of principles of natural justice, as well as, the Master Circular dated 30.07.2024 issued by respondent no.2/RBI.



5. He has invited attention of the Court to the order dated 03.03.2022 passed in an earlier writ petition being W.P.(C) 3653/2022 filed by the petitioner assailing the show cause notice as well as the order of the Identification Committee, on the ground that the same were premised on the Forensic Audit Report of 2021, however, only excerpts from the said report were supplied, instead of supplying a complete copy thereof. He submits that *vide* said order, this Court had noted the submissions of the petitioner and had directed the Review Committee to pass a fresh order.

6. He submits that the Court also granted liberty to the petitioner that in case adverse orders are passed against the petitioner by the Review Committee, the same will not be implemented for two weeks in order to enable the petitioner to seek legal recourse as permissible under law.

7. He submits that the impugned order dated 28.05.2025 came to be passed after three years of the order 03.03.2022¹ and was communicated to the petitioner a month thereafter.

8. He invites attention of the Court to the Master Circular dated 30.07.2024 to contend that the said circular mandates providing personal hearing by the Review Committee to the borrower/guarantor/promoter/director/persons who are in-charge and responsible for the management of the affairs of the entity. The relevant part of the Master Circular reads as under:

4(a)(vii) The Review Committee shall provide an opportunity for a personal hearing also to the borrower/ guarantor/ promoter/ director/ persons who are in charge and responsible for the management of the affairs of the entity. However, if the opportunity is not availed or if the personal hearing is not attended by the

¹ passed in an earlier writ petition i.e. W.P.(C) 3653/2022



borrower/ guarantor/ promoter/ director/ persons who are in charge and responsible for the management of the affairs of the entity, the Review Committee shall, after assessing the facts or material on record, including written representation, if any, consider the proposal of the Identification Committee and take a decision.”

9. He submits that the Review Committee had fixed a date for personal hearing. He draws attention to the impugned order dated 28.05.2025 to contend that the petitioner *vide* e-mail dated 28.04.2025 had shared his medical prescription with the Review Committee and had prayed for further time to appear for personal hearing, however, the same was not acceded to by the Review Committee.

10. It is contended that the present proceedings were initiated in the year 2016 when the loan account of the principal borrower was declared NPA. The show cause notice was issued in the year 2021 whereas the impugned order came to be passed only in May, 2025, therefore, the Review Committee was not justified in not affording 10 days more time to the petitioner to enable him to appear for the personal hearing especially when he had furnished his medical prescription in support of his request.

11. It is contended that even the Master Circular provides that the entire proceedings have to be concluded within a period of six months. Mr. J. Sai Deepak further submits that the Master Circular became enforceable in October, 2024 and the period of six months expired in April, 2025, therefore, the impugned order passed in May, 2025 is beyond the said period. The relevant excerpts from the Master Circular in this regard reads thus:

(2) Review of accounts for identification of wilful default

(a) The lender shall examine the ‘wilful default’ aspect in all Non Performing Assets (NPA) accounts with outstanding amount of ₹25



lakh and above or as may be notified by Reserve Bank of India from time to time. If wilful default is observed in the internal preliminary screening, the lenders shall complete the process of classification/declaring the borrower as a wilful defaulter by following the mechanism set out in para 4(1) above, within six (6) months of the account being classified as Non-Performing Assets (NPA) [in accordance with the instructions regarding asset classification issued by the Reserve Bank from time to time].

(emphasis supplied)

12. He submits that the show cause notice, the report of the Identification Committee as well as the order of the Review Committee are premised on the Forensic Audit Report of the year 2021 and there is no independent application of mind by the authorities.

13. He further contends that prior to the said Forensic Audit Report, the same Auditors had given the report in the year 2019 as well, and the action of the respondent bank to declare the petitioner as wilful defaulter is also based on the Forensic Audit Report of the year 2019, therefore, a copy of the same ought to have been provided to the petitioner, in compliance with the principles of natural justice.

14. It is submitted that since there is a specific observation in the order of this Court dated 03.03.2022 passed in an earlier petition i.e. W.P.(C) 3653/2022 and other connected matters, to the effect that non-supply of Forensic Audit Report tantamount to non-compliance of principles of natural justice, therefore, supply of Audit Report of 2019 was imperative.

15. Attention of the Court is also drawn to the letter dated 29.08.2022 to contend that the *vide* said letter, petitioner had referred to the Audit Report of the year 2019 and a request was made for supplying a copy of the same, but the same was not supplied, nor the existence of the Forensic Audit



Report of the year 2019 has been refuted.

16. In view of the above, issue notice to the respondents by all permissible modes.

17. Let counter affidavit be filed within a period of four weeks from date of service. Rejoinder thereto be filed within a period of three weeks thereafter.

18. Re-notify on 28.10.2025.

19. Having regard to the submission noted hereinabove, which *prima facie* appears to have substance, the operation of the impugned order is stayed till the next date of hearing. It is further directed that no steps pursuant to the impugned order be taken against the petitioner, till the next date.

20. Order *dasti* under the signature of the Court Master.

VIKAS MAHAJAN, J

JULY 2, 2025
N.S. ASWAL