

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3152 OF 2018

AV Amarnath & Anr

...Petitioners

Versus

IDBI Bank Ltd & Anr

...Respondents

WITH

WRIT PETITION NO. 3153 OF 2018

Venkatesan Vetaraman Singanallur & Ors

...Petitioners

Versus

IDBI Bank Ltd & Anr

...Respondents

WITH

WRIT PETITION NO. 2852 OF 2019

Devanshu Praveen Desai

...Petitioner

Versus

State Bank of India & Ors

...Respondents

WITH

WRIT PETITION NO. 2856 OF 2019

Deepen Arun Parekh

...Petitioner

Versus

State Bank of India & Ors

...Respondents

SHEPHALI
SANJAY
MORMARE

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WITH

WRIT PETITION NO. 3521 OF 2019

Kirankumar Chandulal Parikh

...Petitioner

Versus

State Bank of India & Ors

...Respondents

WITH

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8016 OF 2019

Rajan Bhalchandra Datara & Anr

...Petitioners

Versus

Bank of Maharashtra & Anr

...Respondents

WITH

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11454 OF 2019

Shobhana R Datar

...Petitioner

Versus

Union of India Through Ministry of Law &
Justice, Department of Legal Affairs & Ors

...Respondents

WITH

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 262 OF 2020

WITH

INTERIM APPLICATION NO. 7 OF 2020

Kuloday Plastomers Pvt Ltd

...Petitioner

Versus

Union of India & Ors

...Respondents

WITH

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3338 OF 2020

Vaibhav D Kulkarni ...Petitioner
Versus
Reserve Bank of India through the Chief General ...Respondents
Manager & Ors

WITH

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 6384 OF 2020

Rajesh G Poddar & Ors ...Petitioners
Versus
State Bank of India ...Respondent

WITH

WRIT PETITION (L) NO. 9453 OF 2020

Urrshila Kerkar & Anr ...Petitioners
Versus
State Bank of India & Anr ...Respondents

WITH

WRIT PETITION (L) NO. 9456 OF 2020

Urrshila Kerkar & Anr ...Petitioners
Versus
Kotak Mahindra Bank Ltd & Ors ...Respondents

WITH

CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO. 96699 OF 2020

Shree Balaji Milk & Milk Products ...Petitioner
Versus
Bank of India & Ors ...Respondents

WITH

WRIT PETITION NO. 959 OF 2021

Surya Prakash Madrecha ...Petitioner
Versus
State Bank of India & Anr ...Respondents

WITH

WRIT PETITION (L) NO. 1124 OF 2021

Savita Satish Gowda ...Petitioner
Versus
State Bank of India Ltd ...Respondents

WITH

WRIT PETITION (L) NO. 1538 OF 2021

Mohan Prasad Kala ...Petitioner
Versus
State Bank of India Ltd ...Respondents

WITH

WRIT PETITION NO. 1704 OF 2021

Alok Agrawal ...Petitioner
Versus
South Indian Bank Limited & Ors ...Respondents

WITH
WRIT PETITION NO. 1738 OF 2021

Yogesh Mehra	...Petitioner
<i>Versus</i>	
State Bank of India & Ors	...Respondents

WITH
WRIT PETITION NO. 1743 OF 2021

Ajay Mehra	...Petitioner
<i>Versus</i>	
State Bank of India & Ors	...Respondents

WITH
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2369 OF 2021

Chandra Prakash Madrecha	...Petitioner
<i>Versus</i>	
IDBI Bank Limited & Anr	...Respondents

WITH
WRIT PETITION NO. 2392 OF 2021

Surya Prakash Madrecha	...Petitioner
<i>Versus</i>	
IDBI Bank Limited & Anr	...Respondents

WITH
WRIT PETITION NO. 2414 OF 2021

WITH
INTERIM APPLICATION NO. 2655 OF 2021

Ashok Yoginder Punj & Anr	...Petitioners
<i>Versus</i>	
IDBI Bank & Ors	...Respondents

WITH
WRIT PETITION NO. 2545 OF 2021

Ravi Arya & Anr	...Petitioners
<i>Versus</i>	
The Reserve Bank of India through its Governor & Ors	...Respondents

WITH
WRIT PETITION NO. 2605 OF 2021

Mamta Kishore Apparao & Anr	...Petitioners
<i>Versus</i>	
State Bank of India & Ors	...Respondents

WITH
WRIT PETITION NO. 2944 OF 2021

WITH
INTERIM APPLICATION NO. 1033 OF 2020

Punit Agarwal	...Petitioner
<i>Versus</i>	
Reserve Bank of India & Anr	...Respondents

WITH

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3186 OF 2021

Prathiba Milk Industries & Ors	...Petitioners
<i>Versus</i>	
Bank of Baroda & Ors	...Respondents

WITH

WRIT PETITION NO. 3603 OF 2021

WITH

INTERIM APPLICATION NO. 2646 OF 2021

Nareshchandra Sharma	...Petitioner
<i>Versus</i>	
IDBI Bank Ltd & Ors	...Respondents

WITH

WRIT PETITION NO. 3605 OF 2021

WITH

INTERIM APPLICATION NO. 2648 OF 2021

Manjula Bhatia	...Petitioner
<i>Versus</i>	
IDBI Bank Ltd & Ors	...Respondents

WITH

WRIT PETITION NO. 3650 OF 2021

Ajit Bhagwan Kulkarni & Ors	...Petitioners
<i>Versus</i>	
Bank of Maharashtra & Anr	...Respondents

WITH
WRIT PETITION NO. 4386 OF 2021

Kishor M Howale & Anr	...Petitioners
<i>Versus</i>	
The Reserve Bank of India & Ors	...Respondents

WITH
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 5807 OF 2021

Chandra Prakash Madrecha	...Petitioner
<i>Versus</i>	
State Bank of India & Anr	...Respondents

WITH
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8375 OF 2021

Pranav Constructions Systems Pvt Ltd	...Petitioner
<i>Versus</i>	
Bank of India Ltd & Anr	...Respondents

WITH
WRIT PETITION (L) NO. 10149 OF 2021

Viraj Chetan Shah	...Petitioner
<i>Versus</i>	
Union Bank of India	...Respondent

WITH
WRIT PETITION (L) NO. 13989 OF 2021

RJ Bio-Tech Ltd & Ors ...Petitioners
Versus
State Bank of India & Ors ...Respondents

WITH

WRIT PETITION (L) NO. 14651 OF 2021

Harshwardhan Raghvendra Joshi ...Petitioner
Versus
IDBI Bank Ltd & Ors ...Respondents

WITH

WRIT PETITION (L) NO. 14653 OF 2021

Meena Raghavendra Joshi ...Petitioner
Versus
IDBI Bank Ltd & Ors ...Respondents

WITH

WRIT PETITION (L) NO. 14654 OF 2021

Khadkeshwar Hatcheries Ltd & Ors ...Petitioners
Versus
IDBI Bank Ltd & Ors ...Respondents

WITH

WRIT PETITION (L) NO. 16841 OF 2021

MS Ambegaonkar & Anr ...Petitioners
Versus
Union of India & Ors ...Respondents

WITH

WRIT PETITION (L) NO. 20876 OF 2021

Purshottam Chagganlal Mandhana & Ors	...Petitioners
<i>Versus</i>	
State Bank of India & Ors	...Respondents

WITH

WRIT PETITION (L) NO. 27716 OF 2021

Olympic Oil Industries Ltd & Ors	...Petitioners
<i>Versus</i>	
Indian Overseas Bank	...Respondent

WITH

WRIT PETITION NO. 93 OF 2022

Pranav Constructions Systems Pvt Ltd & Ors	...Petitioners
<i>Versus</i>	
Bank of Baroda	...Respondent

INTERIM APPLICATION NO. 483 OF 2022

IN

FIRST APPEAL (L) NO. 23059 OF 2021

Ridge Innovations Pvt Ltd, formerly known as DSL Enterprises Pvt Ltd, Nashik & Anr	...Appellants
<i>Versus</i>	
Bank of Maharashtra, Nashik	...Respondent

WITH

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 932 OF 2020

Shree Balaji And Balaji Milk Products through its ...Petitioners
Partners

Versus

Bank of India & Ors ...Respondents

WITH

WRIT PETITION NO. 1230 OF 2022

Autocrat Automotive Stamping Pvt Ltd & Ors ...Petitioners

Versus

Bank of India, through its Managing Director and ...Respondents
Chief Executive Officer & Anr

WITH

WRIT PETITION (L) NO. 3725 OF 2022

PSL Corrosion Control Services Ltd & Ors ...Petitioners

Versus

Union of India & Ors ...Respondents

WITH

WRIT PETITION (L) NO. 5543 OF 2022

Vijay Gowardhandas Kalantri & Anr ...Petitioners

Versus

Bank of Baroda (formally Vijaya Bank) & Ors ...Respondents

WITH

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 543 OF 2022

Sanjay Singal	...Petitioner
<i>Versus</i>	
Reserve Bank of India & Anr	...Respondents

Dr Birendra Saraf, Senior Advocate, with Vivek Patil & Satchit Bhogle, i/b Vishnu Chavan, for the Petitioners in WP/3186/2021, mp/932/2022 & WPST/96699/2020.

Mr Arif Bookwala, Senior Advocate, with Anuj Jhaveri & Aashish Darne, i/b PSL Advocates & Solicitors, for the Petitioner in WPL/543/2022.

Mr Ashish Kamat, with Ashmita Goradia & Priyal Savla, i/b Aagam Doshi, for the Petitioners in WPL/27716/2021.

Mr Kamini Pansare, i/b VM Legal, for the Petitioners in WPL/16841/2021.

Mr Onkar Chandurkar, with Neha Patil & Rajesh Devgharkar, i/b Akshay Vijay Kamle, for the Petitioner in WPL/1704/2021.

Ms Kirti Taralkar, i/b Shivaji Masal, for the Petitioner in WP/262/2020, WP/3338/2020 & WP/4386/2021.

Mr Archit Chaturvedi, i/b Parinam Law Associates, for the Petitioner in WPL/10149/2021.

Mr Ashwin Shanker, with Kunal Naik, for Petitioners in WP/3650/2021.

Mr Rohit Gupta, with Vaibhav Warerkar & Rukshin Chiara, i/b Mulla Associates, for the Petitioner in WP/2944/2021.

Mr Rohit Gupta, with Kazan Shroff, Mohnish S Jain, i/b Lex Legal & Partners, for the Petitioners in WP/959/2021, WPL/1124/2021, WPL/1538/2021, WP/2369/2021, WP/2392/2021 & WPL/5807/2021.

Ms Ankita Singhania, with Sonal Sanap & Priyansh Jain, i/b M/s Apex Law Partners in WP/8375/2021 & WP/93/2022.

Mr Akhilesh Dubey, with Dharmesh Joshi, Satyapal S Thasar & Supriya V Harugade, i/b TD Joshi & Associates, for Petitioners in WPL/9453/2020 and WPL/9456/2020.

Mr Akshay Doctor, with Deepak Deshmukh & Vivek Dwivedi, i/b Naik Naik & Co, for the Petitioners in WP/2605/2021.

Mr Simil Purohit, with Nikita Vardhan & Vishal Tiwari, i/b Kanga & Company, for the Petitioner in WP/2852/2019, WP/2856/2019

and WP/3521/2019.

Mr Mukul Taly, with Sayali Gharpure, i/b S Mahomedbhai & Co, for the Petitioner in ASWP/8016/2019 & WP/11454/2019.

Mr Sachin Chandarana, with Akshay Dhayalkar, i/b Manilal Kher Ambalal & Co, for the Petitioner in WP/1738/2021 & WP/1743/2021.

Mr Prakash S, for the Petitioner in WP/2545/2021.

Mr Mukul Taly, with Sayali Gharpure, i/b S Mahomedbhai & Co, for the Petitioner in IA/483/2022 in FAST/23059/2021.

Mr Anuj Jaiswal, i/b Little & Co, for the Petitioners in WPL/5543/2022.

Mr NR Bubna, for Respondent No. 1 in WPL/16841/2021.

Mr Rakesh L Singh, i/b MV Kini & Co, for Respondent No. 1-Bank of Baroda in WP/3186/2021.

Mr AR Bamne, for Respondents Nos. 1to 4 in WPL/5543/2022.

Mr Inayat Ali Qureshi, i/b KK Associates, for Respondent No. 1 in WP/2605/2021.

Ms Sayali Bhaidkar, i/b Manjiri Parasnisi, for Respondent in WP/3338/2020.

Mr Nainesh Amin, for Respondent No. 2-Union Bank of India in WP/2605/2021.

Mr Rupak Swangikar, i/b M/s V Deshpande & Co, for Respondent No. 1 in WPL/9456/2020.

Mr Mohamedali M Chunawala, i/b Gul Asnani, for Respondent No.4-Union of India, in WPL/13989/2021.

Mr Mohamedali M Chunawala, i/b AA Ansari, for Respondent No.1-Union of India in ASWP/11454/2019 and for Respondent No.2-Union of India in ASWP/8016/2019.

Mr Dhannya Prasad, with V Mannadiar, i/b Mannadiar & Co, for Respondent No. 4 in WP/1738/2021 and WP/1743/2021.

Mr Nishit Dhruva, with Prakash Shinde, Niyati Merchant & Yash Dhruva, i/b MDP & Partners, for Respondent No. 1 in WP/3152/2018, WP/3153/2018, WP/2852/2019, WP/2856/2019, WP/3521/2019, WP/959/021, WP/1738/2021, WP/1743/2021, WP/2369/2021, WP/2392/2021, WP/5807/2021, WP/10149/2021, WP/20876/2021, for Respondent No. 2 in WP/2944/2021 and for Respondent No. 3 in WPL/16841/2021.

Mr Gyayak P, i/b Khaitan & Co, for the Respondent-SBI in
WPL/6384/2020.

Mr M Ahuja, i/b Veritas Partners, for Respondents Nos. 3&4 in
WP/3603/2021 & WP/3605/2021.

Mr Ashutosh Misra, for Respondent No. 2-Union of India in
WP/8375/2021.

Mr Digant Bhatt, i/b IV Merchant & Co, for Respondent No. 4 in
WPL/20876/2021.

Mr Dhannya Prasad, with V Mannadiar, i/b Mannadiar & Co, for
Respondent No. 4 in WP/1738/2021 and WP/1743/2021.

Ms Aditi Phatak, with Kirti Ojha, i/b Blac Co, for RBI in
WP/8016/2019, WP/11454/2019 and WP/2545/2021.

Mr Niranjan Shimpi, for UOI in WPL/3725/2022.

CORAM G.S. Patel &
Madhav J. Jamdar, JJ.

DATED: 8th March 2022

PC:-

1. We have a report from Mr Trivedi pursuant to our directions dated 9th and 28th February 2022. Mr Trivedi had before him 43 matters. The tabulation annexed or included in the report does not tally exactly with the board listing today. However, from the matters that were listed before Mr Trivedi, he has been able to identify those matters where there is interim relief, those where there is no interim relief, and also whether or not the case of the petitioner is that there is a procedural infirmity in the impugned orders. In all cases but one (Original Side Writ Petition No. 2545 of 2021) there is some procedural infirmity or the other alleged.

2. In Writ Petitions Nos. 8016 of 2019 and 11454 of 2019, to be heard with First Appeal (L) No. 23059 of 2021, there is a

substantive vires challenge placed by the Petitioners/Appellants. Mr Tally for the Petitioners/Appellants informs us that there is a challenge to the constitutionality and the power of the Chief General Manager to issue wilful defaulters circulars, directions or notifications.

3. We propose to consider these submissions at the forefront because the decision on the vires challenge may well affect the authority to issue circulars in all other matters.

4. Mr Arsiwala appears for the Petitioners in Sr. No. 46, Writ Petition (L) 3725 of 2022. His challenge is on a slightly different footing, namely that there is an entirely artificial creation of a sub-class guarantors who are sought to be treated as wilful defaulters irrespective of the conduct of the principal debtor. This will be the next challenge but limited to the sub-class of guarantors.

5. As regards all the other cases where there is a challenge to a procedural irregularity and infirmity, we propose to hear Mr Bookwala as the lead counsel on the correct interpretation of the relevant guidelines, circulars and notifications (subject of course to the result of the two vires challenges mentioned above). If we find that any Petition is contrary to the interpretation that we finally adopt, necessarily those Petitions will succeed and the wilful defaulters notifications or declarations will fail. If, however, we find that there are cases where there is sufficient or adequate compliance and no procedural infirmity, then the individual cases will have to be taken up one by one to see whether the declarations of wilful

defaulters were or were not justified in the facts of that particular case and subject to the limited examination possible in writ jurisdiction.

6. We have made this orders only so that all can proceed systematically through the entire group of 43 or more matters.

7. Mr Shah's case at Sr No. 24, Writ petition No. 2545 of 2021 stands perhaps on a entirely different footing. In this case, the Petitioners actually been removed from the list of wilful defaulters. There is, therefore, no challenge per se to any wilful defaulters notification. Indeed, the Petitioner has a no dues certificate. However, presumably on the basis that the Petitioner was — once upon a time — declared a wilful defaulter, he has been informed that his creditworthiness will remain negative for next five years and that he also cannot approach any bank for any facilities. This question is unaffected by any larger question of vires or of procedural infirmity. We propose to segregate Sr No. 24 and take it separately.

8. Sr No. 24, Writ Petition No. 2545 will be listed on 22nd March 2022.

9. As regards the remaining matters, we accept Mr Purohit's suggestion that a one-page note briefly highlighting the procedural challenges in each matters may be submitted to Mr Trivedi.

10. We request Mr Trivedi to rework his list so that it follows the listing on today's board to avoid any mix up.

11. Any Advocates who did not appear before Mr Trivedi are given one further opportunity to place the necessary material before him.
12. We list the entire group on 31st March 2022 at 2:30 pm.
13. If for any reason we are not able to dispose of any matter finally, we will consider the question of interim relief.

(Madhav J. Jamdar, J)

(G. S. Patel, J)