

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 27429 OF 2025

Rakesh Gopikishan Biyani

... Petitioner

V/s.

Punjab National Bank

... Respondent

Mr. Navroz Seervai, Senior Counsel with Mr. Aseem Naphade, Mr. Ameet Naik, Mr. Abhishek Kale, Mr. Pabitra Dutta, Ms. Shalvika Nachankar and Mr. Aditya Ojha i/b. Naik Naik & Co. for the Petitioner
Ms. Priya Nigwekar i/b. Ms. Pallavi Chari for the Respondent

**CORAM : R.I. CHAGLA AND
FARHAN P. DUBASH, JJ.**

DATE : 09th SEPTEMBER 2025

P.C. :

1. By this Writ Petition, the Petitioner is impugning the Show Cause Notice dated 30th July 2025 and has sought a direction to the Respondent not to take any action against the Petitioner pursuant to the impugned Show Cause Notice dated 30th July 2025.

2. Mr. Navroz Seervai, learned Senior Counsel appearing for the Petitioner has referred to the impugned Show Cause Notice dated 30th July 2025 (Exhibit F to the Petition). The impugned Show Cause Notice has been addressed *inter-alia* to the Petitioner. The subject matter of the impugned Show Cause Notice is alleged fraud in borrowal account(s) of Future Retail

Ltd. He has referred to Paragraph No.3 of the impugned Show Cause Notice which states that “Based on the findings of the Forensic Audit Report dated 15th September of BDO India LLP, Bank has perceived the account as fraud on the following factors....” He has referred to the column titled ‘Fraud angle’ in the tabular form under the above quoted portion and wherein factor(s) of fraud angle have been mentioned against misappropriation of funds and criminal breach of trust.

3. Mr. Seervai has submitted that along with the impugned Show Cause Notice there was a redacted Forensic Audit Report of BDO India LLP (“BDO”) dated 15th September 2023, enclosed. He has submitted that the Petitioner has now been able to obtain a non-redacted Forensic Audit Report of BDO dated 15th September 2023. He has referred to the non-redacted Forensic Audit Report which has been annexed at Exhibit 'T' to the Petition.

4. Mr. Seervai has referred to the letter dated 15th September 2023, addressed by the BDO to the Deputy General Manager, Bank of India which forms part of the non-redacted Forensic Audit Report. In Paragraph 3 of the letter it is stated that the report is intended for distribution only to the Bank of India and may not be relied upon by the other parties (“Third Party”). He has further referred to Paragraph 2 of the Report under the caption ‘Notice to Reader’ where it is again stated that the “report is solely

for the use of Bank of India and is not intended to and should be used or relied upon by anyone else. BDO India does not accept any duty of care, to any other person or entity other than the Bank of India”.

5. Mr. Seervai has further referred to the Fraud Classification as per RBI Guidelines. He has referred to the observations of BDO under this subject and in particular, the fraud categories mentioned therein including misappropriation and criminal breach of trust against which it is mentioned ‘Not Applicable’. The other elements of fraud have also been mentioned as ‘Not Applicable’. He has submitted that inspite of the contents of the un-redacted BDO report, the impugned Show Cause Notice has placed exclusive reliance upon the Forensic Audit Report of BDO which is redacted. The said letter dated 15th September 2023 addressed by the BDO to the Deputy General Manager, Bank of India has also been redacted. He has submitted that though the redacted BDO Report includes the aforementioned fraud classification as per RBI Guidelines wherein it is mentioned that misappropriation and criminal breach of trust are Not Applicable, the impugned Show Cause Notice states that the BDO Report has perceived the account as fraud and has set out factor(s) of fraud angle against misappropriation of funds and criminal breach of trust. He has submitted that the *malafide* action on the part of the Respondent – Bank and its Assistant General manager who has issued the impugned Show Cause Notice

is glaring on the face of the impugned Show Cause Notice. He has accordingly pressed for grant of ad-interim relief in terms of prayer clause a(ii) of the Petition.

6. Having considered the submission, although time has been sought by Ms. Priya Nigwekar the learned Counsel for the Respondent – Bank to take instructions, given that the impugned Show Cause Notice has been issued in a most improper manner i.e. without enclosing the un-redacted Forensic Audit Report dated 15th September 2023 of BDO India LLP which includes the letter dated 15th September 2023 addressed by BDO to the Deputy General Manager, Bank of India, the writ petition is taken up for grant of ad-interim relief. It is expressly mentioned in the said letter that the BDO Report is solely for the use of the Bank of India and is not intended to and should not be relied upon by anyone else, and that the Report may not be relied upon by other parties (“Third Party”). In spite of which the impugned Show Cause Notice has exclusively relied upon the said BDO Forensic Audit Report.

7. Further, it is pertinent to note that the redacted BDO Forensic Audit Report enclosed in the Show Cause Notice has referred to the elements of fraud titled as ‘Fraud Classification’ as per RBI Guidelines and which have been found as ‘Not Applicable’. The impugned Show Cause Notice although exclusively placing reliance upon the BDO Report sets out the factor(s) of

fraud angle including on misappropriation of funds and criminal breach of trust as if they had been made applicable. The impugned Show Cause Notice has in fact gone on to state that the BDO Forensic Audit Report has perceived the action of fraud on the factors mentioned in the impugned Show Cause Notice.

8. In view thereof, the impugned Show Cause Notice issued by the Assistant General Manager requires to be stayed.

9. The ad-interim relief is granted in terms of prayer clause a(ii) of the Writ Petition and shall be restricted to the Petitioner's prayer clause a(ii) which reads as under :-

“a(ii) restraining the Respondent by itself, its servants, agents, officers and subordinates from in any manner whatsoever taking any action against the Petitioner pursuant to, and/or in implementation of the Impugned SCN dated July 30, 2025 (at Exhibit “F”).”

10. The Respondent – Bank shall take instructions whether they intend to withdraw the impugned Show Cause Notice dated 30th July 2025 and which shall be informed to this Court on the next date. The Assistant General Manager of Respondent – Bank shall remain present on the next date.

11. In the event the Respondent desires to file an Affidavit in Reply to the Writ Petition, the same shall be filed within a period of two weeks from today i.e. on or before 23rd September 2025.

12. Writ Petition shall be placed for further consideration on **8th October 2025**.

(FARHAN P. DUBASH, J.)

(R.I. CHAGLA J.)

JYOTI
PRAKASH
PAWAR

Digitally signed
by JYOTI
PRAKASH
PAWAR
Date: 2025.09.12
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