



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 30058 OF 2024 (GM-RES)

BETWEEN

SRI. SWARUPANANDA GOUDA K S
S/O SANTHAVEERA GOUD.K.S.
AGED ABOUT 60 YEARS,
CHARTERED ENGINEER AND GOVT. APPROVED VALUER,
NO 713,"VAGDEVI" 42ND CROSS,
12TH MAIN, NEAR ESI, 3RD BLOCK,
RAJAJINAGAR, BANGALORE-560 010.

... PETITIONER

(BY SRI. PRABHU N. SAVANUR., ADVOCATE)

AND

1. INDIAN BANKS ASSOCIATION
CENTRE-1, 6TH FLOOR,
CENTRAL BUILDING,
WORLD TRADE COMPLEX,
CUFFE PARADE, MUMBAI-400 005,
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER,
2. RESERVE BANK OF INDIA,
SHAHID BHAGATH SINGH ROAD,
FORT, MUMBAI-400 005,
REPRESENTED BY ITS GENERAL MANAGER,
3. UNION BANK OF INDIA,
UNION BANK BHAVAN,
NO.239, VIDHAN BHAVAN MARG,
NARIMAN POINT, MUMBAI, 400 021.
REPRESENTED BY ITS
MANAGING DIRECTOR AND
CHIEF EXECUTIVE OFFICER





4. UNION BANK OF INDIA,
(FORMER ANDHRA BANK' ZONAL OFFICE)
REGIONAL OFFICE, SWARNA CITY CENTER, 1ST FLOOR,
STATION ROAD, HUBBALLI -580 020,
REPRESENTED BY ITS REGIONAL MANAGER,
5. THE FEDERAL BANK,
FEDERAL TOWERS, MARKET ROAD,
PERIYAR NAGAR, ALUVA-683 101,
KERALA STATE,
REPRESENTED BY MANAGING DIRECTOR AND
CHIEF EXECUTIVE DIRECTOR

.... RESPONDENTS

(BY SMT. DIVYA PURANDAR., ADVOCATE FOR R1, R3 & R4;
SRI. B.S. JEEVAN KUMAR., ADVOCATE FOR R5;
SRI. PRADEEP S. SAWKAR., ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR ALL RELEVANT RECORDS PERTAINING TO PLACING THE PETITIONERS NAME IN THE TPE CAUTION LIST ISSUED BY THE 1ST RESPONDENT AND ISSUE A WRIT OF MANDAMUS APPROPRIATE WRIT ORDER OR DIRECTION AS THE CASE MAY BE, BY DIRECTING THE 1ST RESPONDENT TO FORTHWITH REMOVE THE NAME OF THE PETITIONER FROM THE TPE CAUTION LIST PUBLISHED BY THE 1ST RESPONDENT WITH THE FURTHER DIRECTION TO CONTINUE THE EMPANELMENT OF THE PETITIONER BY THE RESPONDENTS 3 TO 5 AND GRANT THE PETITIONER SUCH OTHER FURTHER RELIEF WITH THE APPROPRIATE DIRECTION OR ORDER AS THIS HONBLE COURT DEEMS FIT TO GRANT IN THE FACTS AND CIRCUMSTANCES OF THE CASE AND ALSO IN THE INTEREST OF JUSTICE AND EQUITY AND ALLOW THIS WRIT PETITION WITH COSTS.

THIS WRIT PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 08.01.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ



CAV ORDER

1. The Petitioner is before the Court seeking for the following reliefs:

"Call for all relevant records pertaining to placing the Petitioner's name in the TPE Caution List issued by the 1st Respondent and issue a Writ of Mandamus or any other appropriate Writ Order or Direction as the case may be, by directing the 1st Respondent to forthwith remove the name of the Petitioner from the TPE Caution List published by the 1st Respondent with the further direction to continue the empanelment of the Petitioner by the Respondents 3 to 5 and grant the Petitioner such other further relief with the appropriate direction or order as this Hon'ble Court deems fit to grant in the facts and circumstances of the case and also in the interest of justice and equity and allow this writ petition with costs."

2. The Petitioner is a civil engineer by profession and has been empanelled with Respondents No.4 and 5 – banks. Insofar as respondent No. 4 is concerned, he was earlier empanelled in 2004 with Andhra Bank, which, upon its amalgamation, became Union Bank of India. Insofar as respondent No.5 is concerned, he was empanelled in 2021.
3. The Petitioner claims that the Petitioner has had a blemishless record as a property valuer of respondents No.3/4 for over one and a half decades. The contention of the Petitioner is that the Petitioner



received a show cause notice on 10.4.2018 via email, wherein it was alleged that the Petitioner had committed serious irregularities in the valuation of properties pertaining to the loan transaction of Hagarabommanahalli branch of respondent No.3. The Petitioner replied to the same on 9.6.2018 seeking certain information, clarification, and copies. No response having been received to the request, a reply was submitted by the Petitioner on 23.7.2018.

4. In the meantime, the Petitioner contends that he had had several correspondences with respondent No.4 to supply certain papers. However, there was no response from respondent No.4. While things stood thus, the Petitioner contends that he came to know of the recommendation made by respondents No.3 and 4 to include the Petitioner's name in the caution list of third-party entities maintained by respondent No.2, which was so done by respondent No.1 on 22.5.2019.
5. This allegedly came to the knowledge of the Petitioner when the Petitioner made inquiries as to why no work had been allotted/assigned to him by respondents No.4 and 5. It is on account of the said inclusion of the name of the Petitioner in the caution



list, that the Petitioner is before this Court seeking the aforesaid reliefs.

6. The submission of Sri. Prabhu N. Savanur, learned counsel for the Petitioner is that

- 6.1. Respondents No.3 and 4 have not followed the procedure prescribed by the Indian Banks Association-respondent No.1.
- 6.2. The inclusion of the name of the Petitioner in the caution list is violative of principles of natural justice inasmuch as, except for the issuance of a show cause notice dated 10.4.2018, there is no other correspondence that has been issued.
- 6.3. The reply, which has been submitted by the Petitioner, has not been considered. No hearing has been provided to the Petitioner. The Order passed thereon has not been communicated to the Petitioner. His submission is also that the mandatory procedure prescribed in terms of the procedural guidelines for Reporting Names of Third Parties involved in Frauds to IBA (Respondent No.1) for inclusion in the caution list has also not been followed.



- 6.4. The inclusion of the name of the Petitioner has an adverse impact on the fundamental right to practice trade and profession; such right has been adversely affected, thereby violating the fundamental right of the Petitioner under Article 19(1)(g). Even if it were to be held that the right of the Petitioner can be subject to Article 19 (6), the same would have to be done in terms of applicable law and by following the due procedure.
- 6.5. His submission that even in terms of the Procedural Guidelines, it was required that any Reporting of Third Parties to IBA for inclusion in the caution list should be done only after giving the party concerned a fair opportunity to be heard, and such decisions should be made after a detailed examination at an appropriate level.
- 6.6. A working group had also been formed to discuss and prepare procedural guidelines for member banks to follow, and in pursuance of which the draft guidelines had been formulated. The Petitioner, though, comes within the definition of a Third Party Entity (**TPE**) engaged by a bank, and the guidelines may be



applicable thereto; it is, however, required of respondents No.3 and 4-banks, and of respondent No.1-association, to comply with the guidelines in their letter and spirit. His submission is that Rule 5 of the said guidelines is mandatorily required to be followed.

6.7. Rule 5 is reproduced hereunder for easy reference:

5. *Forum to evaluate the role of a Third Party Entity in a fraud/loss event it is proposed that an independent and empowered forum be set up to evaluate the 5. Forum to evaluate the role of a Third Party Entity In a fraud /loss event role of TPEs in fraud cases.*

a. Composition of the Forum

The Forum could consist of 3 to 5 members of sufficient seniority from the various control functions, One person among the above members will play role of coordinator. This could typically be the group which reports frauds to RBL. The group which had used the services of TPE shall also be part of the Forum to decide on the particular case, While the Chief Vigilance Officer of the bank could be a member of the Forum, the Forum shall not have any of the persons who investigated the case.

b. Quorum

The Forum meetings would have a quorum of any 2/3 members.



c. Periodicity of meetings

The Forum would meet as and when the fraud investigation team of the bank presents a fraud /loss event investigation report in which there is an evidence-based conclusion about the involvement of a TPE In the perpetration of the fraud. As soon as the investigation team presents this report, the meeting of the Forum will need to be convened, not later than 10 working days after the submission of the report by the Investigation team. The proceedings of the meeting may be recorded and kept in file.

d. Functions of the Forum

- To receive investigation reports containing the details of involvement of TPEs in frauds, from the investigation team.*
- To seek explanation in writing from the TPES, in order to provide an opportunity to the TPE to present his case".*
- To discuss and evaluate the responses and seek further clarifications, if any.*
- To decide on the involvement or otherwise of the TPEs in the frauds.*
- To recommend inclusion of the TPE in the 'cautionary list'.*

*(*the Working Group did not find it feasible to provide for a personal hearing to the TPE to defend his action considering logistics involved. However, banks could take a case specific view in the matter, depending on the gravity of the case).*

- 6.8. By relying on Rule 5, he submits that a forum is required to be formed to evaluate the role of a



Third Party entity like the Petitioner as regards any allegation of fraud or loss, which is required to consist of three to five members of sufficient seniority from various control functions who is required to receive reports, seek explanation in writing from the TPE, provide an opportunity to the TPE to present his case, to discuss and evaluate the response, and seek further clarification, and to decide on the involvement or otherwise of the TPE in the frauds before recommending the inclusion of a TPE in the caution list.

- 6.9. His submission is that though a personal hearing is not required to be provided, the same would have to be considered on a case-specific basis and the gravity of the matter. He relies on guideline No.6, which is reproduced hereunder for easy reference:

6. Process of evaluation of involvement of TPE and reporting to IBA

a. Investigating teams in the bank should prepare product-wise standard investigation procedure, including a detailed checklist of points to be covered in a case. This should include whether a TPE contributed to the credit evaluation process and whether his contribution was bonafide or malafide or whether there was gross negligence.



b. If during the investigation of a fraud, it emerges that third parties are involved, the investigation report should contain the details of the third parties and the extent of involvement in the fraud (negligence or malafide intention).

c. The investigation report would get forwarded in the normal course, to the group reporting frauds to RBI, for reporting the same in the Frauds Reporting and Monitoring System (FrMS).

d. Within 10 days of the receipt of such report, the Forum meeting should be convened.

e. The Forum would review the report put up by the investigation team.

f. The Forum will be guided by the principles of natural justice and act independently and impartially.

g. The Forum will take a considered view when isolated cases of negligence /gross negligence on the part of the TPE is reported as to the desirability of recommending inclusion of the TPE in the caution list. It may not be fair to caution list a TPE for a reported instance of negligence when malafide intentions are not involved.

h. If the Forum feels that the intentions of the TPE were malafide, the Forum will ask the concerned business/operations group to write to the TPE concerned and seek explanation for his/her action.

i. The TPE will be asked to reply to the letter within 15 days of receipt of the letter.

j. If the TPE replies with an explanation for his/her action, a meeting of the. Forum will be convened and the reply discussed.



k. If the members of the Forum feel that the explanation given by the TPE is logical and acceptable, they will convey the same to the group. A record of the same will be kept. A letter will be sent to the TPE by the concerned group conveying the same.

l. If the members of the Forum do not find the explanation to be acceptable, they will recommend sending of the name of the TPE to IBA.

m. Accordingly, the Forum will send the name to IBA in the format specified by IBA (Annexure V). This will also be conveyed to the TPE by the concerned group in the form of a written communication.

n. The step of informing IBA about a TPE's involvement in fraud will be independent of the possibility of the bank raising the matter with the regulatory bodies of the expert TPEs (e.g. Institute of Chartered Accountants of India, Bar Council of India, etc.) as well as filing FIRs against them. The Forum will separately take those decisions based on the circumstances of each case,

o. The Forum will also send the name to the group maintaining the centralized database of TPEs, for updating the same.

6.10. By relying on guideline No.6, his submission is that an investigation team in the bank is required to prepare a product-wise standard investigating procedure; such a procedure has not been formulated, nor has it been provided



to the Petitioner. An investigation report, when submitted, is required to categorically state the involvement of the TPE and the extent of involvement in the fraud by specific reference to negligence or malafide intention. Such an investigation report is required to be forwarded to the working group.

- 6.11. On receipt of the said report, the Forum, which will review the report put up by the investigating team and on that basis, and the Forum being guided by the principles of natural justice, is required to act independently and impartially and take a considered view as to whether to include a TP in the caution list or not.
- 6.12. His submission is that when an isolated case of negligence / gross negligence is reported, it would not be fair to include the TPE in the caution list. But to only include if they are malafide intentions, which are involved.
- 6.13. Thus, he submits that there is a requirement to categorically indicate not only the alleged default/negligence, but also the mental element and intention.



- 6.14. It is only when the Forum feels that the intention of the TPE was malafide, a letter or a notice is to be issued to the TPE seeking an explanation for his / action. On the reply of the TPE, a meeting of the Forum is to be convened and discussed. If the explanation is found to be logical, accept it and convey it to the concerned TPE. If the members of the Forum do not find the explanation to be acceptable, they are required to recommend the sending of the name of the TP to IBA in the format specified at Annexure-5.
- 6.15. Based on the above, the submission of Sri Prabhu N. Savanur, learned counsel for the Petitioner, is that there has to be a fraud, which has been committed by the TPE, there has to be an intention to commit a fraud and not mere negligence or gross negligence. Such fraud should not be isolated but recurring, and only then could the Forum seek an explanation.
- 6.16. Even this explanation would have to be considered to ascertain if it is logical or acceptable, and only if not acceptable by recording reasons, a recommendation for



inclusion in the caution list can be made. These guidelines, he submits, have not been followed by respondents No.3 and 4 or by the forum, requiring respondent No.1 to include the name of the Petitioner in the caution list.

6.17. In this regard, he relies upon the following decisions:

6.18. He relies upon the decision of the Hon'ble in the case of ***Shri H.T. Vasudev vs. State Bank of India & Ors.***¹ more particularly, Paras 10 and 11 which are reproduced hereunder for easy reference:

10. *In my considered opinion, the alleged discrepancies in the extent and location of the property available at the spot in relation to the property documents is to be scrutinized and assessed by the legal counsel of the bank and not by the petitioners, who are merely civil engineers and approved valuers, whose duties and responsibilities are to inspect the property and submit their report regarding the valuation on the basis of the guideline value and actual market value by taking into consideration all relevant parameters, which does not include scrutiny of the title documents and property records, which would lie in the realm of scrutiny by the legal counsel and not by the petitioners. Similarly, the legality, validity, genuineness and authenticity of the documents furnished by the borrower to the bank*

¹ WP No.22386/2022 c/w WP No.17989/2022 dated 3.7.2024



would necessarily have to be assessed and examined by the legal counsel of the bank and not by the petitioners, who are not qualified or eligible or entitled to render any opinion in this regard, which is beyond their skill and expertise, which solely vests with the legal counsel; in other words, it is the sole duty and responsibility of the legal counsel of the bank to give necessary advice by scrutinizing the title deeds and documents after obtaining the valuation report furnished by the petitioners, who cannot be attributed with professional misconduct on account of discrepancies in either the property documents or location / extent of the property in respect of which they submitted their valuation report. To put it simply, the various allegations and claim made by the respondent – bank describing / categorizing the valuation report submitted by the petitioners as an act of professional misconduct clearly has no nexus / connection whatsoever with the nature of duties and responsibilities to be fulfilled and performed by them while submitting a report. Under these circumstances, I am of the considered opinion that the petitions deserved to be disposed of by issuing necessary directions to the respondents to remove the names of the petitioners from the TPE Caution List and by issuing further directions in this regard.

11. *In the result, I pass the following:*

ORDER

(i) W.P.No.22386/2022 is hereby allowed.

(ii) The impugned Communication at Annexure – F dated 01.08.2022 is hereby quashed.



iii) The 3rd respondent – Indian Banks Association is directed to remove / delete the name of the Petitioner from the TPE Caution List and issue a fresh / new list by deleting the name of the Petitioner and also upload the fresh / new list without the name of the Petitioner in its website www.iba.org.in as expeditiously as possible and at any rate within a period of four weeks from the date of receipt of a copy of this Order.

(iv) The respondent Nos.1 and 2 – bank is also directed to take necessary steps to delete the name of the Petitioner from the TPE Caution List or any other list showing/ indicating the name of the Petitioner as disempanelled /depanelled valuer of the bank within a period of four weeks from the date of receipt of a copy of this Order.

(v) It is however made clear that this Order will not come in the way of Respondent Nos.1 and 2 – bank taking necessary steps not to renew the services of the Petitioner or to continue the services of the Petitioner as a valuer by passing appropriate orders in this regard and liberty is reserved in favour of Respondent Nos.1 and 2 to do so, in accordance with law.

(vi) W.P.No.17989/2022 is hereby allowed.

(vii) The 1st respondent – Indian Banks Association is directed to remove / delete the name of the Petitioner from the TPE Caution List and issue a fresh / new list by deleting the name of the Petitioner and also upload the fresh / new list without the name of the Petitioner in its website www.iba.org.in as expeditiously as possible and at any rate within a period of four weeks from the date of receipt of a copy of this Order.



(viii) The respondent No.2 – bank is also directed to take necessary steps to delete the name of the Petitioner from the TPE Caution List or any other list showing /indicating the name of the Petitioner as disempanelled /depanelled valuer of the bank within a period of four weeks from the date of receipt of a copy of this Order.

(ix) It is however made clear that this Order will not come in the way of Respondent No.2 – bank taking necessary steps not to renew the services of the Petitioner or to continue the services of the Petitioner as a valuer by passing appropriate orders in this regard and liberty is reserved in favour of Respondent No.2 to do so, in accordance with law.

6.19. Placing reliance upon the decision of this Court in **H.T. Vasudev** it is submitted that the ratio laid down in the said judgment squarely applies to the facts of the present case and governs the controversy at hand.

6.20. In the said decision, this Court had occasion to examine the scope of duties and responsibilities of a civil engineer functioning as an approved valuer of a bank. The Court, after analysing the nature of allegations levelled therein, categorically held that discrepancies relating to the extent and location of property vis-à-vis title documents are matters to be scrutinised by the legal counsel of the bank and not by the



valuer. It was observed that the duty of a valuer is confined to physical inspection of the property and submission of a valuation report based upon guideline value, prevailing market value and other technical parameters relevant to valuation. The scrutiny of title deeds, verification of ownership, assessment of genuineness and legality of documents, and examination of documentary authenticity lie within the exclusive domain of the legal counsel engaged by the bank.

6.21. The Court in **Vasudev** further held that a valuer, who is neither legally qualified nor authorised to render opinions on title or documentary validity, cannot be fastened with professional misconduct on account of discrepancies in property records or defects in title documents. It was specifically observed that such allegations lack nexus with the nature of duties performed by a valuer and, therefore, inclusion of the valuer's name in the TPE Caution List on that basis was unsustainable.

6.22. On that reasoning, this Court quashed the impugned communication and directed the



Indian Banks' Association to remove the name of the Petitioner therein from the TPE Caution List and issue a fresh list deleting his name. Simultaneously, liberty was reserved in favour of the concerned bank to take appropriate action regarding continuation or renewal of empanelment in accordance with law, thereby drawing a clear distinction between contractual empanelment and stigmatic industry-wide caution listing.

6.23. Placing reliance upon **Vasudev**, learned counsel submits that the present case stands on an identical footing. The Petitioner herein is also a civil engineer and approved valuer. The allegations levelled against him pertain to valuation in relation to a loan transaction. There is no categorical finding of fraud, collusion, or malafide intent. The alleged discrepancies, even if assumed, relate to matters that do not fall squarely within a valuer's professional remit but lie within the domain of title verification and documentary scrutiny.



- 6.24. It is therefore contended that, as in **Vasudev**, the impugned inclusion of the Petitioner's name in the TPE Caution List suffers from the absence of a nexus between the alleged irregularities and the professional duties of the Petitioner. The action, being stigmatic in nature and having industry-wide adverse consequences, cannot be sustained in the absence of a clear finding of misconduct within the scope of the Petitioner's professional obligations and strict adherence to the procedural safeguards contemplated under the guidelines.
- 6.25. On these premises, learned counsel submits that the ratio of **Vasudev** directly applies and that the Petitioner is entitled to similar relief of removal of his name from the TPE Caution List, while leaving it open to the concerned banks to take such action as may be permissible in law with regard to empanelment.
- 6.26. He relies upon the decision of the Hon'ble this Court in the case of **Veershetty vs. The Chairman, IBS & ors.**,² more particularly, Paras 4, 6 and 7 which are reproduced hereunder for easy reference:

² WP No.202453/2023 dated 11.11.2024



4. It is the grievance of the Petitioner that though the Petitioner complied with the terms and conditions of the agreements entered into between the petitioner and respondent Nos.2 to 5 - Banks and did not violate any of the terms and conditions of the empanelment of the Petitioner with the aforesaid Banks, respondents 2 to 5 have proceeded to issue the impugned letters/orders at Annexure - D dated 12.12.2022, Annexure - H dated 08.06.2023, Annexure - J dated 11.05.2023 and Annexure - K dated 11.0.2023 without providing sufficient or reasonable opportunity to the Petitioner nor considering his replies or hearing the Petitioner, thereby, violating principles of natural justice and as such, the Petitioner is before this Court by way of the present petition.

6. A perusal of the material on record will indicate that though the Petitioner has submitted detailed replies to the notices issued by respondent Nos.2 to 5 - Banks, the said respondents have not considered the same and have proceeded to terminate the services of the Petitioner and disempanelled the Petitioner from their respective Banks, without providing sufficient or reasonable opportunity to the Petitioner, thereby, violating principles of natural justice and on this ground alone, I am of the considered opinion that the impugned letters/orders at Annexures - D, H, J and K issued by respondent Nos. 2 to 5, respectively, deserve to be set aside and the matter remitted Back to the respondent Nos.2 to 5 for reconsideration of afresh in accordance with law.

7. In the result, I pass the following:



ORDER

i) The writ petition is allowed.

ii) The impugned letters/orders at Annexure – D, H, J and K are hereby set aside. Matter is remitted back to respondent Nos.2 to 5 for reconsideration afresh in accordance with law.

iii) Liberty is reserved in favour of the Petitioner to submit his pleadings, replies, documents, etc., to respondent Nos.2 to 5, who shall consider the same and provide sufficient and reasonable opportunity to the Petitioner and proceed further and take appropriate decision/pass appropriate orders in accordance with law.

iv) Respondent No.1 - Association is directed to furnish caution-list to the Petitioner within a period of four weeks from the date of receipt of a copy of this Order.

v) Respondent No.1 is also directed to remove the name of the Petitioner from the IBATP caution-list within a period of four weeks from the date of receipt of a copy of this Order.

6.27. Placing reliance upon the decision of this Court in **Veershetty**, it is submitted that the principles laid down in the said judgment reinforce the Petitioner's contention that the impugned action is vitiated for violation of natural justice.

6.28. In **Veershetty**, the grievance of the Petitioner therein was that, despite compliance with the



terms and conditions of empanelment and submission of detailed replies to the notices issued by the concerned banks, the services of the Petitioner were terminated and he was disempanelled without sufficient or reasonable opportunity and without due consideration of his replies. The Court, upon perusal of the material on record, recorded a finding that the replies submitted by the Petitioner had not been considered and that the banks had proceeded to terminate and disempanel him in violation of the principles of natural justice.

- 6.29. The Court held that, on that ground alone, the impugned letters and orders deserved to be set aside and the matter required reconsideration in accordance with the law. Consequently, the orders of termination and disempanelment were quashed, and the matter was remitted back for fresh consideration after affording sufficient and reasonable opportunity to the Petitioner. Further, the Indian Banks' Association was directed to remove his name from the IBATP caution list within a stipulated time.



6.30. Placing reliance on the aforesaid judgment, learned counsel submits that the present case stands on a similar footing. Here also:

6.30.1. The Petitioner had submitted replies to the show cause notice;

6.30.2. He had sought documents and clarifications;

6.30.3. No material has been placed to show consideration of his reply;

6.30.4. No reasoned order has been communicated;

6.30.5. The inclusion in the TPE Caution List was effected without affording sufficient or reasonable opportunity.

6.31. It is contended that, as held in **Veershetty**, non-consideration of the Petitioner's reply and failure to provide a reasonable opportunity constitute sufficient ground to set aside the impugned action. The principle emerging from the said decision is that even in matters of empanelment or caution listing, where civil consequences ensue, strict adherence to



principles of natural justice is indispensable. Any action taken in breach thereof is liable to be interfered with in the exercise of writ jurisdiction.

6.32. On these premises, learned counsel submits that the impugned inclusion of the Petitioner's name in the TPE Caution List, having been effected without due consideration of his reply and without communication of any reasoned decision, is liable to be quashed, with appropriate consequential directions in line with the relief granted in **Veershetty**.

6.33. He relies upon the decision of the Hon'ble High Court of Telangana in the case of **M/s.G.P.Sankaram and Associates vs. Union Bank of India and ors.,³** more particularly, Paras 3, 5, 9, 13 and 14 which are reproduced hereunder for easy reference:

3. *The learned counsel for the petitioner firm further submitted that the petitioner firm received a show cause notice dated 25-11-2016 from the respondents stating that there was a fraud in seven housing loan accounts with its Hitech City branch and asked the Petitioner to explain why they should not be placed in caution list of Indian Banks'*

³ WP No.1036/2019 dated 18.7.2022



Association. The petitioners filed a detailed reply to the said notice on 07-12-2016 rebutting all the allegations. The Petitioner approached the respondents several times personally and through representations seeking their response after submitting reply seeking to know the status, but in vain. The Petitioner received a letter dated 29-11-2018, from the circle office of Canara Bank, Himayat Nagar, Hyderabad, stating that the respondents placed them in the Indian Banks' Association Caution List of Third Party Entities (TPE), for the alleged irregularities reported by one of the member banks for discrepancies in valuation. Their enquiries revealed that it was the respondents who placed the petitioners in the said list to the detriment of the petitioners. There was a standard procedure established before removing a panel valuer by the banks. There were as many as three steps contemplated for the same. The first step would be to issue Show Cause notice and receive an explanation for the same. The second step would be hearing wherein the valuer was given an opportunity to be heard so that his view point was made known. The third step would be deliberation by the Committee. The respondents followed the first step, but not the other two steps and hence violated the procedure established in the said connection. The respondents thus hastily and illegally depanelled them with malafide intention to cause damage to the Petitioner's reputation. The abrupt termination of their services by the respondents caused immense hardship. The threat of the respondents to inform other banks about putting the name of the Petitioner in the IBA Caution List would damage their reputation



5. Perused the record. The record would disclose that a show cause notice was issued by the Andhra Bank on 25.11.2016 to the petitioner firm stating that they observed fraud in 7 housing loan accounts with Hitech City Branch. On the basis of the valuation report submitted by the Petitioner, the bank financed the housing loan account against the security provided to the bank and gave the details of the borrowers. The details of the primary security and the discrepancies with regard to the primary security as observed by them were stated in the show cause notice and it was further stated that the properties had not been identified correctly and that the Petitioner was negligent in their duties, which led to perpetration of fraud by the borrowers and builder. Due caution was not taken in property valuation and the valuation report was based on the statement of the borrower which led to wrong identification of the properties. Thus, the Petitioner had fallen short in meeting the service standards by not giving proper attention in identifying the properties and made the bank to credit losses and asked the Petitioner to show cause his explanation as to why his name should not be entered in IBA caution list. A reply was given by the Petitioner on 07.12.2016. The Petitioner explained that they were asked by the Hitech City Branch of Andhra Bank during the year 2011 to assess the plots being built on land in Sy.No. 100/A and they were informed that the bank had already released the loan and the report from them was only to fulfil the official procedure/formalities. They observed a discrepancy regarding name of the apartment. The copies of the documents served on them would indicate the name of the apartment as



"Sai Alex", but the name painted there was 'Sai Avenue and the same was brought to the notice of the bank with a note on the same in their report. The property was jointly identified by the valuer along with the bank officers Sri Nageswara Rao & Ms. Priyadarshini. After four years they were asked to revalue the same and copies of the same documents which were given to them earlier during the year 2011 were provided and they again highlighted the discrepancy regarding the name of the apartment, but the bank took it lightly.

9. *For the same reason in the year 2018, a detailed circular was issued by the bank for guidance of the Controlling Officers vide Circular No.139 dated 20.07.2018. The relevant clause is para-XIII in the said Circular and the same is pertaining to de-panelling of the valuers. The same is extracted for ready reference.*

"XIII. Guidelines for calling explanation where approved valuers were negligent and their certification turns out to be untrue and factually in correct, exposing the Bank to avoidable risks, Depaneling and Reporting to IBA for placing the name in Third Party Caution List.

1. Circle Office of the respective zone, upon receipt of request for depanelment from zone, will assess the need if warranted, will issue a Show Cause Notice duly signed by the Circle General Manager to the Valuer marking a copy to Zonal Office.

2. The reasons for depanelment should be spelt out clearly in the notice



3. The valuer has to submit his reply within 15 days to Circle Office marking a copy to Zonal Office

4. Zonal Office on receipt of reply from the Concerned Valuer, has to give their views and Recommendations to Circle Office taking into account the explanation given by the Valuer

5. Circle office after examination of the explanation along with the views of zonal office shall decide about depanelment and communicate the same to the empanelled Chartered Engineer/Firm. A copy of the same has to be marked to CMRD Head Office."

13. *Thus, no opportunity was provided to the Petitioner to know the reasons for their depanelment after submitting their explanation and the said views of the Zonal Office deciding about their depanelment was also not communicated to the petitioners as required under clause (5) of Para-XIII of the guidelines of the Controlling Offices issued vide Circular No.139 dated 20.07.2018. Non-compliance of the principles of natural justice by the respondent Bank amounts to arbitrariness in dealing with the matter. Deleting the name of the person from the rolls or panel without assigning any reasons is unfair and arbitrary and hence, it is considered fit to allow the writ petition.*

14. *Accordingly, the writ petition is allowed declaring the action of the respondents 1 and 2 in removing the partners of the petitioner firm from the panel of approved valuers as violative of principles of natural justice and the 4th respondent is directed to remove the name of*



the petitioner firm from the caution List of the Third Party Entities. No order as to costs.

- 6.34. Placing reliance upon the judgment of the Hon'ble High Court of Telangana in **Sankaram** it is contended that the principles laid down therein squarely apply to the case on hand.
- 6.35. In the said decision, the petitioner firm, an approved valuer, had received a show cause notice alleging fraud in certain housing loan accounts and calling upon it to explain why its name should not be placed in the caution list maintained by the Indian Banks' Association. The firm submitted a detailed reply rebutting the allegations and made repeated representations seeking a response. However, without any further communication or hearing, it was subsequently informed that its name had been placed in the IBA Caution List at the instance of the bank.
- 6.36. The grievance urged before the Telangana High Court was that, though the initial step of issuing a show cause notice had been complied with, the subsequent mandatory procedural



safeguards were not followed. It was contended that the established procedure contemplated (i) issuance of notice, (ii) opportunity of hearing, and (iii) deliberation by a competent committee before taking a decision on depanelment and reporting to IBA. The bank, however, proceeded only with the first step and omitted the remaining safeguards.

6.37. Upon perusal of the record, the High Court examined the factual background in detail. The show cause notice referred to discrepancies in the identification of properties and alleged negligence on the part of the valuer. The reply submitted by the petitioner firm explained the circumstances under which the valuation was undertaken and noted that discrepancies had, in fact, been highlighted to the bank at the relevant time. The Court also referred to Circular No. 139 dated 20.07.2018, which contained specific guidelines governing depanelment and reporting to the IBA. Clause XIII of the said Circular required, inter alia, that:



- 6.37.1. Reasons for depanelment be clearly spelt out in the notice;
 - 6.37.2. The valuer be given 15 days' time to submit a reply;
 - 6.37.3. The Zonal Office examines the explanation and makes recommendations;
 - 6.37.4. The Circle Office, after considering the explanation and recommendations, makes a decision and communicates the same to the valuer.
- 6.38. The High Court found that, though an explanation had been submitted, there was no communication of the views or decision taken by the competent authority as mandated by the guidelines. The Petitioner was not informed of the reasons for depanelment after submission of the reply, nor were the deliberations of the authority communicated.
- 6.39. The Court held that non-compliance with the principles of natural justice amounted to arbitrariness. Deleting the name of a person from the panel or caution list without assigning



reasons was held to be unfair and arbitrary. Consequently, the writ petition was allowed, the action of removing the petitioner firm from the panel was declared violative of natural justice, and the concerned respondent was directed to remove the Petitioner's name from the TPE Caution List.

6.40. Placing reliance on the aforesaid judgment, learned counsel submits that the factual matrix of the present case is strikingly similar. Here also:

6.40.1. A show cause notice was issued;

6.40.2. A detailed reply was submitted by the Petitioner;

6.40.3. No further opportunity was afforded;

6.40.4. No decision or reasons were communicated;

6.40.5. The Petitioner came to know of the inclusion in the caution list only subsequently.

6.41. It is submitted that, as in **Sankaram**, the mere issuance of a show cause notice does not



satisfy the requirements of natural justice. There must be demonstrable consideration of the explanation, application of mind by the competent authority, and communication of a reasoned decision before proceeding to depanel or include in the caution list a professional, resulting in adversely affecting his reputation and livelihood.

6.42. Accordingly, learned counsel contends that the impugned action in the present case, having been taken without adherence to the procedural safeguards and without communication of reasons, is arbitrary, violative of principles of natural justice, and liable to be set aside with consequential direction to remove the Petitioner's name from the TPE Caution List.

6.43. He relies upon the decision of the Hon'ble High Court of Judicature at Madras in the case of ***N.R.Raghuram & Co., vs. Indian Banks' Association and ors.,***⁴ more particularly, Paras 6, 8, 13, 14, 15 & 16 which is/are reproduced hereunder for easy reference:

⁴ WP No.17780/2017 & WP No.19291/2017 dated 30.1.2020



6. *As seen from the counter affidavit filed by the second respondent, while processing a housing loan for one of its customers, the Petitioner had over valued the properties of the customers and subsequently, reduced the value from Rs.1,15,000/- per cent to Rs.1,00,000/- per cent. It is also their case that once again, it was noticed by them that due to over valuation by the Petitioner, the property of one other customer who had availed housing loan at Coimbatore was over valued. According to them, the property was Rs. 17,00,000/- per cent by the Petitioner and they found that enquiry, valued at on further the property will fetch only Rs.10,00,000/- to Rs.12,00,000/- per cent. According to them, only in such circumstances, a complaint was given to the first respondent for uploading the Petitioner's name in the caution List of the first respondent website.*

8. *to of the learned counsel for the According Petitioner, the first respondent without any prior notice has put the Petitioner's name in the caution list of their website. According to him, the Petitioner has not violated the rules and regulations the bank while valuating the properties of the customers of the second respondent bank. Further, it is his case that due to the hosting of the Petitioner's name in the caution list in the first respondent website, other banks have also stopped giving the Petitioner any business for valuation work. It is also his case that without any enquiry, the third and fourth respondent banks have also stopped giving business to the Petitioner for valuation work and they have terminated the Petitioner's services. According to the learned counsel for the Petitioner, the action of the first*



respondent is arbitrary, unreasonable and unconstitutional.

13. *However, the first respondent based on the complaint received from the second respondent bank, with regard to the irregularities committed by the Petitioner in the valuation of the properties, the first respondent has hosted the Petitioner's name in the caution list in their website affecting his business interest with other member banks of the first respondent association. This will amount to deprivation of fundamental rights of the Petitioner, to carry banks are concerned, there on his business as a valuer with other banks. Insofar as other is no finding against the professional misconduct, violated Petitioner that he has indulged in unfair practices, guilty of ethics and professional practice. Even as per clause 1.4 of the handbook on policy standards and procedures for real estate valuation by banks and housing finance institutions in India, the said requirement is mandatory. In the case on hand, since there is no finding that the Petitioner has committed any of the aforementioned irregularities, with regard to other banks, the hosting of the Petitioner's name in the caution list of the first respondent website is arbitrary, and unconstitutional.*

14. *Clause 1.4 and 1.5 of the handbook on policy standards and procedures for real estate valuation by banks and housing finance institutions in India reads as follows:*

"1.4 Removal

In extreme cases where the valuer has been found to be indulging in unfair practices, guilty of professional misconduct, violating the code



of ethics and professional practice, he shall be removed from the panel. The procedure to institutions shall followed by the banks housing finance comprise of the following steps:

-issue of show cause notice

- hearing

- appropriate action, including removal from the panel for a period of five years, if charges are found serious

1.5 Re-Empanelment

Valuers once removed from the panel of any bank or housing finance institution could be re-empanelled again after a specified period, based on the recommendations of the bank Conflict Resolution Committee. Names of valuers removed shall be reported the Indian Banks' Association which in turn shall place the names on its caution list."

15. *Further, even under the appointment letter issued by the second respondent, there is no reference that the Petitioner has been put on notice about the handbook on policy standards and procedures for real estate valuation by banks and housing finance institutions in India which the first respondent relies upon.*

16. *For the foregoing reasons, this Court directs the first respondent to remove the name of the Petitioner from the caution list in their website within a period of one week from the date of receipt of a copy of this Order. However, it is made clear that insofar as the second respondent bank is concerned, they are at liberty to terminate the services of the Petitioner in accordance with the appointment*



letter dated 10.09.2013 which permits them to terminate without reason and without any prior notice.

- 6.44. Relying upon the judgment of the Hon'ble High Court of Judicature at Madras in **Raghuram** he contended that inclusion of a valuer's name in the IBA Caution List, without adherence to prescribed safeguards and without a finding of professional misconduct, is unconstitutional and unsustainable.
- 6.45. In the said case, allegations were levelled against the petitioner valuer that he had overvalued certain properties while processing housing loans. On the basis of complaints from a member bank, the Indian Banks' Association hosted the Petitioner's name in the caution list on its website. The Petitioner contended that no prior notice was issued before placing his name in the caution list and that such hosting had the effect of other member banks discontinuing business with him. It was urged that the action was arbitrary, unreasonable and violative of constitutional guarantees.



6.46. The Hon'ble Madras High Court, upon examining the pleadings and materials, observed that though allegations of overvaluation had been made by one bank, there was no finding that the Petitioner had indulged in unfair practices, violated professional ethics, or committed professional misconduct vis-à-vis other banks. The Court took note of Clause 1.4 of the "Handbook on Policy, Standards and Procedures for Real Estate Valuation by Banks and Housing Finance Institutions in India," which mandates that removal from the panel in extreme cases must follow a structured procedure comprising issuance of a show-cause notice, hearing, and appropriate action if charges are found serious. Clause 1.5 further contemplates reporting to the IBA for inclusion in the caution list only in accordance with such procedure.

6.47. The Court found that there was no compliance with the mandatory procedure under the handbook. Further, there was no material to show that the Petitioner had been put on notice about the applicability of the handbook at the time of appointment. In the absence of a



finding of professional misconduct of the nature contemplated under Clause 1.4, the hosting of the Petitioner's name in the caution list affecting his business with other member banks was held to be arbitrary and unconstitutional, as it effectively deprived him of his right to carry on his profession.

6.48. Consequently, the Hon'ble Madras High Court directed the IBA to remove the Petitioner's name from the caution list within a stipulated period. At the same time, it clarified that the concerned bank retained the liberty to terminate the Petitioner's services in accordance with the terms of the appointment letter, thereby distinguishing between contractual termination and stigmatic caution listing with industry-wide consequences.

6.49. Placing reliance upon the aforesaid decision, learned counsel submits that the ratio squarely applies to the present case. Here also:

6.49.1. The inclusion in the TPE Caution List was effected at the instance of a member bank;



- 6.49.2. The inclusion has adversely affected the Petitioner's professional engagements with other banks;
- 6.49.3. There is no categorical finding of professional misconduct of the nature contemplated under the applicable guidelines;
- 6.49.4. There is no demonstrated compliance with a structured procedure comprising notice, hearing, deliberation and reasoned decision prior to reporting to IBA.
- 6.50. It is submitted that, as held in **Raghuram**, caution listing without adherence to prescribed safeguards and without a definitive finding of serious professional misconduct amounts to arbitrary deprivation of the Petitioner's right to carry on his profession. The impugned action, therefore, is liable to be interfered with, while preserving liberty to the concerned banks to regulate empanelment in accordance with law and contractual stipulations.



6.51. He relies upon the decision of the Hon'ble High Court of Judicature at Madras in the case of ***P.Ravi Kumar vs. the Chief General Manager and another⁵***, more particularly, Paras 4, 5 and 6, which are reproduced hereunder for easy reference:

4. *The similar issue has already been dealt with by this Court in the case of NR Rahuram & Co., Vs. Indian Bank's Association and ors., in W.P.No.17780 of 2017 order dated 30.01.2020, which held as follows :-*

"13. However, the first respondent based on the complaint received from the second respondent bank, with regard to the irregularities committed by the Petitioner in the valuation of the properties, the first respondent has hosted the Petitioner's name in the caution list in their website affecting his business interest with other member banks of the first respondent association. This will amount to deprivation of fundamental rights of the Petitioner, to carry on his business as a valuer with other banks. Insofar as other banks are concerned, there is no finding against the Petitioner that he has indulged in unfair practices, guilty of professional misconduct, violated code of ethics and professional practice. Even as per clause 1.4 of the handbook on policy standards and procedures for real estate valuation by banks and housing

⁵ WP No.23290/2022 & WMP No.22242/2022 dated 25.6.2024



finance institutions in India, the said requirement is mandatory. In the case on hand, since there is no finding that the Petitioner has committed any of the aforementioned irregularities, with regard to other banks, the hosting of the Petitioner's name in the caution list of the first respondent website is arbitrary, and unconstitutional.

14. Clause 1.4 and 1.5 of the handbook on policy standards and procedures for real estate valuation by banks and housing finance institutions in India reads as follows:

"1.4 Removal In extreme cases where the valuer has been found to be indulging in unfair practices, guilty of professional misconduct, violating the code of ethics and professional practice, he shall be removed from the panel. The procedure to be followed by the banks / housing finance institutions shall comprise of the following steps :

- issue of show cause notice*
- hearing*
- appropriate action, including removal from the panel for a period of five years, if charges are found serious*
- 1.5 Re-Empanelment Valuers once removed from the panel of any bank or housing finance institution could be re-empanelled again after a specified period, based on the recommendations of the bank Conflict Resolution Committee. Names of valuers removed*



shall be reported to the Indian Banks' Association which in turn shall place the names on its caution list."

15. Further, even under the appointment letter issued by the second respondent, there is no reference that the Petitioner has been put on notice about the handbook on policy standards and procedures for real estate valuation by banks and housing finance institutions in India which the first respondent relies upon.

16. For the foregoing reasons, this Court directs the first respondent to remove the name of the Petitioner from the caution list in their website within a period of one week from the date of receipt of a copy of this Order. However, it is made clear that insofar as the second respondent bank is concerned, they are at liberty to terminate the services of the Petitioner in accordance with the appointment letter dated 10.09.2013 which permits them to terminate without reason and without any prior notice."

5. *In view of the above Order, this Court directs the second respondent to remove the name of the Petitioner from the caution list in their website within a period of one week from the date of receipt of a copy of this Order.*

6. *With the above directions, the Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no orders as to costs.*



- 6.52. Placing reliance upon the judgment of the Hon'ble High Court of Judicature at Madras in **P. Ravi Kumar** he submits that the inclusion of a valuer's name in the IBA Caution List, without strict adherence to the prescribed procedure and without a definitive finding of professional misconduct, is legally unsustainable.
- 6.53. In the said case, the Hon'ble Madras High Court was confronted with a situation similar to the one in **Raghuram**. The Court expressly relied upon its earlier decision in **Raghuram**, wherein it had held that hosting the name of a valuer in the caution list on the basis of a complaint by one bank, without a finding of unfair practices, professional misconduct, or violation of code of ethics, would amount to deprivation of the valuer's fundamental right to carry on his business.
- 6.54. The Court reiterated that Clause 1.4 of the "Handbook on Policy Standards and Procedures for Real Estate Valuation by Banks and Housing Finance Institutions in India" mandates a structured procedure before removal from the panel, comprising:



6.54.1. issuance of show cause notice,

6.54.2. hearing, and

6.54.3. appropriate action if charges are found serious.

6.55. Clause 1.5 further contemplates reporting to the Indian Banks' Association only after such removal in accordance with the prescribed process.

6.56. In **Ravi Kumar**, the Court, following the earlier precedent, directed the removal of the Petitioner's name from the caution list within a stipulated period. At the same time, it clarified that the concerned bank retained the liberty to terminate the Petitioner's services in accordance with the appointment letter, thereby drawing a clear distinction between contractual termination and stigmatic caution listing with industry-wide ramifications.

6.57. Placing reliance upon the aforesaid decision, learned counsel submits that the principle is now well-settled that:



- 6.57.1. Inclusion in the IBA Caution List carries serious civil and reputational consequences;
 - 6.57.2. Such inclusion cannot be justified merely on the basis of allegations by a single member bank;
 - 6.57.3. There must be strict compliance with the mandatory procedural safeguards contemplated under the applicable handbook/guidelines;
 - 6.57.4. In the absence of a finding of serious professional misconduct, hosting the name of a valuer in the caution list is arbitrary and unconstitutional.
- 6.58. It is therefore contended that the impugned action in the present case, having been taken without a demonstrable finding of professional misconduct of the nature contemplated under the governing norms and without adherence to due procedure, is liable to be interfered with in exercise of writ jurisdiction, with appropriate directions for removal of the Petitioner's name from the TPE Caution List, while reserving



liberty to the concerned banks to regulate empanelment in accordance with law.

6.59. He relies upon the decision of the Hon'ble High Court of Judicature at Madras in the case of ***P.Subramani vs. The Assistant General Manager and another***,⁶ more particularly, Paras 4 and 5, which are reproduced hereunder for easy reference:

4. The similar issue has already been dealt with by this Court in the case of NR Rahuram & Co., Vs. Indian Bank's Association and ors., in W.P.No.17780 of 2017 order dated 30.01.2020, which held as follows :-

"13. However, the first respondent based on the complaint received from the second respondent bank, with regard to the irregularities committed by the Petitioner in the valuation of the properties, the first respondent has hosted the Petitioner's name in the caution list in their website affecting his business interest with other member banks of the first respondent association. This will amount to deprivation of fundamental rights of the Petitioner, to carry on his business as a valuer with other banks. Insofar as other banks are concerned, there is no finding against the Petitioner that he has indulged in unfair practices, guilty of professional misconduct, violated code of ethics and professional practice. Even as per clause 1.4 of the handbook on policy standards and procedures

⁶ WP No.21044/2022 & WMP Mp/20063/2022 dated 25.6.2024



for real estate valuation by banks and housing finance institutions in India, the said requirement is mandatory. In the case on hand, since there is no finding that the Petitioner has committed any of the aforementioned irregularities, with regard to other banks, the hosting of the Petitioner's name in the caution list of the first respondent website is arbitrary, and unconstitutional.

14. Clause 1.4 and 1.5 of the handbook on policy standards and procedures for real estate valuation by banks and housing finance institutions in India reads as follows:

"1.4 Removal In extreme cases where the valuer has been found to be indulging in unfair practices, guilty of professional misconduct, violating the code of ethics and professional practice, he shall be removed from the panel. The procedure to be followed by the banks / housing finance institutions shall comprise of the following steps :

- issue of show cause notice*
 - hearing*
 - appropriate action, including removal from the panel for a period of five years, if charges are found serious*
- 1.5 Re-Empanelment Valuers once removed from the panel of any bank or housing finance institution could be re-empanelled again after a specified period, based on the recommendations of the bank Conflict Resolution Committee. Names of valuers removed shall be reported to the Indian Banks' Association which in turn shall place the names on its caution list."*



15. Further, even under the appointment letter issued by the second respondent, there is no reference that <https://www.mhc.tn.gov.in/judis> the Petitioner has been put on notice about the handbook on policy standards and procedures for real estate valuation by banks and housing finance institutions in India which the first respondent relies upon.

16. For the foregoing reasons, this Court directs the first respondent to remove the name of the Petitioner from the caution list in their website within a period of one week from the date of receipt of a copy of this Order. However, it is made clear that insofar as the second respondent bank is concerned, they are at liberty to terminate the services of the Petitioner in accordance with the appointment letter dated 10.09.2013 which permits them to terminate without reason and without any prior notice."

5. In view of the above Order, this Court directs the second respondent to remove the name of the Petitioner from the caution list in their website within a period of one week from the date of receipt of a copy of this Order.

6.60. He relies upon the decision of the Hon'ble High Court of Judicature at Madras in the case of **S.Karthikeyan vs. Tamil Nadu Mercantile Bank Ltd., and another**⁷, more particularly,

⁷ WP No.22980/2022 & WMP No.21988/2022 dated 20.9.2023



Para 5 (14 to 19), which is/are reproduced hereunder for easy reference:

5. In Vitec consultancy vs. Indian Banks' Association and Others (W.P.No.14801 of 2022, dated 10.01.2023), a learned Single Judge of this Court has passed the following Order:

"14. In that particular Order which Writ Petition was also filed, ISC seeking the same relief, namely to remove the name of the Petitioner therein from the Caution List, the learned Single Judge had extracted the following from the Hand Book:

"14. Clause 1.4 and 1.5 of the handbook on policy standards and procedures for real estate valuation by banks and housing finance institutions in India reads as follows:

"1.4 Removal

In extreme cases where the valuer has been found to be indulging in unfair practices. guilty of professional misconduct, violating the code of ethics and professional practice, he shall be removed from the panel. The procedure to be followed by the banks/housing finance institutions shall comprise of the following steps:

-issue of show cause notice

-hearing

-appropriate action, including removal from the panel for a period of five years, if charges are found serious.



1.5 Re-Empanelment

Valuers once removed from the panel of any

bank or housing finance institution could be re-empanelled again after a specified period. based on the recommendations of the bank Conflict Resolution Committee. Names of valuers removed shall be to Indian Banks. Association which in turn shall place the names on its Caution List.

15. A careful reading of the above shows that a Show Cause Notice has to be issued and a hearing has to be conducted and thereafter, appropriate action has to be done including removal from the panel for a period of five years if the charges are serious.

16. In the instant case, there was only one stray occasion. where the Petitioner had unfortunately come to the adverse notice of the 2nd respondent on the charge of over-valuing a particular site in the year 2014.

17. A further perusal of the Clauses extracted above also shows that those who are removed from the panel can again be re-empanelled.

18. Taking into consideration the fact that the name of the BC petitioner had been uploaded without any opportunity being given by the 1st respondent directly, I would, also taking into consideration the fact that the respondent had taken a conscious decision not to appear before this Court or be represented before this Court, and balancing that factor with Petitioner has come to the adverse knowledge of all the banks the fact that by uploading the name of the Petitioner, the which is an extreme step



taken, interfere with the uploading of the name of the Petitioner by the 1st respondent in their website, and issue a direction that this should be removed immediately.

19. All individual Banks are given freedom to independently engage the Petitioner as a valuer on the basis of the confidence they have on the capabilities of the Petitioner herein. But there cannot be a restraint of trade absolutely.

6.61. Learned counsel further relies upon the judgment of the Hon'ble High Court of Judicature at Madras in **Subramani** to contend that the legal position concerning caution listing of valuers now stands consistently settled.

6.62. In **P. Subramani**, the Hon'ble Madras High Court was once again confronted with the issue of inclusion of a valuer's name in the caution list maintained by the Indian Banks' Association. The Court expressly relied upon its earlier decision in **N.R. Raghuram**, reiterating the principles laid down therein.

6.63. The Court reaffirmed that hosting the name of a valuer in the caution list, based on a complaint from a member bank, without a finding that the valuer had indulged in unfair practices, professional misconduct, or violation of the code of ethics, amounts to deprivation of the



valuer's fundamental right to carry on his profession. The Court referred to Clauses 1.4 and 1.5 of the Handbook on Policy Standards and Procedures for Real Estate Valuation by Banks and Housing Finance Institutions in India, which mandate a structured procedure prior to removal from the panel, namely, issuance of a show cause notice, hearing, and appropriate action if the charges are found serious. Only thereafter can the name be reported to the IBA for inclusion in the caution list.

6.64. The Court also noted that the appointment letter issued by the concerned bank did not put the Petitioner on notice regarding the applicability of the said handbook, and therefore, reliance upon its provisions without adherence to its safeguards could not be sustained.

6.65. Following the earlier precedent, the Madras High Court directed the removal of the Petitioner's name from the caution list within a stipulated time, while clarifying that the concerned bank was at liberty to terminate the



services of the Petitioner in accordance with the terms of appointment. Thus, a clear distinction was maintained between contractual termination on the one hand and stigmatic industry-wide caution listing on the other.

6.66. Placing reliance on **P. Subramani**, learned counsel submits that the principle emerging from the Hon'ble Madras High Court decisions is consistent and categorical: inclusion in the IBA caution list, having serious reputational and professional consequences, cannot be effected without (i) strict compliance with the mandatory procedural safeguards under the governing handbook/guidelines, and (ii) a clear finding of serious professional misconduct. In the absence of such findings and procedural adherence, caution listing is arbitrary, unconstitutional and liable to be set aside.

6.67. It is therefore contended that the impugned action in the present case suffers from identical infirmities and warrants similar relief of removal of the Petitioner's name from the TPE Caution List, while preserving liberty to the concerned



banks to regulate empanelment in accordance with law.

6.68. He relies upon the decision of the Hon'ble High Court of Judicature at Madras in the case of ***M/s.Vitec Consultancy vs. Indian Banks' Association and ors.,⁸*** more particularly, Paras 13 to 20, which are reproduced hereunder for easy reference:

13. *I had a benefit of an order passed by a learned Single Judge of this Court in W.P.No.17780/2017 [N.R.Raghuram and Company vs. Indian Bank's Association and Others.*

14. *In that particular Order which Writ Petition was also filed, seeking the same relief, namely to remove the name of the Petitioner therein from the Caution List, the learned Single Judge had extracted the following from the Hand Book:*

"14. Clause 1.4 and 1.5 of the handbook on policy standards and procedures for real estate valuation by banks and housing finance institutions in India reads as follows:

"1.4 Removal In extreme cases where the valuer has been found to be indulging in unfair practices, guilty of professional misconduct, violating the code of ethics and professional practice, he shall be removed from the panel. The procedure to be followed by the

⁸ WP No.14801/2022 & WMP No.14003/2022 dated 10.1.2023



banks/housing finance institutions shall comprise of the following steps:

-issue of show cause notice

-hearing

-appropriate action, including removal from the panel for a period of five years, if charges are found serious.

1.5 Re-Empanelment Valuers once removed from the panel of any bank or housing finance institution could be re-empanelled again after a specified period, based on the recommendations of the bank Conflict Resolution Committee. Names of valuers removed shall be reported to the Indian Banks' Association which in turn shall place the names on its Caution List."

15. *A careful reading of the above shows that a Show Cause Notice has to be issued and a hearing has to be conducted and thereafter, appropriate action has to be done including removal from the panel for a period of five years if the charges are serious.*

16. *In the instant case, there was only one stray occasion, where the Petitioner had unfortunately come to the adverse notice of the 2nd respondent on the charge of over-valuing a particular site in the year 2014.*

17. *A further perusal of the Clauses extracted above also shows that those who are removed from the panel can again be re-empanelled.*
<https://www.mhc.tn.gov.in/judis>

18. *Taking into consideration the fact that the name of the Petitioner had been uploaded*



without any opportunity being given by the 1st respondent directly, I would, also taking into consideration the fact that the 1st respondent had taken a conscious decision not to appear before this Court or be represented before this Court, and balancing that factor with the fact that by uploading the name of the Petitioner, the Petitioner has come to the adverse knowledge of all the banks which is an extreme step taken, interfere with the uploading of the name of the Petitioner by the 1st respondent in their website, and issue a direction that this should be removed immediately.

19. *All individual Banks are given freedom to independently engage the Petitioner as a valuer on the basis of the confidence they have on the capabilities of the Petitioner herein. But there cannot be a restraint of trade absolutely.*

20. *I am therefore compelled to pass an order, allowing the Writ Petition and directing that the name of the Petitioner must be removed from the website of the 1st respondent. Any Bank and every Bank is given the freedom to engage the Petitioner as a professional valuer subject.*

6.69. Learned counsel placing reliance upon the judgment of the Hon'ble High Court of Judicature at Madras in **Vitec Consultancy**, contends that inclusion of a valuer's name in the IBA Caution List, without strict adherence to the prescribed safeguards and without



affording opportunity, amounts to an impermissible restraint on trade.

6.70. In **Vitec Consultancy**, the learned Single Judge considered an earlier decision in **N.R. Raghuram**. extracted Clauses 1.4 and 1.5 of the Handbook on Policy Standards and Procedures for Real Estate Valuation by Banks and Housing Finance Institutions in India. The Court emphasised that removal from the panel, in extreme cases of unfair practices or professional misconduct, must be preceded by a structured procedure

6.71. The Court observed that only after such removal could the name be reported to the Indian Banks' Association for placement in the Caution List. A careful reading of the handbook, according to the Court, made it clear that these safeguards were mandatory.

6.72. In the facts of that case, the alleged lapse pertained to a single stray instance of overvaluation. The Court noted that uploading the Petitioner's name on the IBA website, without affording opportunity and without direct compliance with the procedural safeguards, was



an extreme step. It further held that uploading the name resulted in the Petitioner coming to the adverse knowledge of all banks, thereby severely impacting his professional prospects.

6.73. Significantly, the Court held that while individual banks are at liberty to decide whether to engage a particular valuer based on their confidence and internal assessment, there cannot be an absolute restraint on trade by way of centralised caution listing without due process. The uploading of the name in the caution list, in the absence of strict compliance with the mandatory procedure and without adequate opportunity, was therefore interfered with. The Court directed the removal of the Petitioner's name from the IBA website, while preserving the freedom of individual banks to independently decide whether to engage him.

6.74. Placing reliance on **Vitec Consultancy**, learned counsel submits that the ratio squarely supports the Petitioner's case. The inclusion of the Petitioner's name in the TPE Caution List has the effect of circulating an adverse stigma across all member banks, which is far more



severe than mere termination by an individual bank. Such a step, being drastic in nature, must be preceded by strict compliance with procedural safeguards and clear findings of serious professional misconduct. In the absence of such compliance and findings, the impugned action amounts to an unreasonable and disproportionate restraint on the Petitioner's right to carry on his profession and is liable to be set aside, while leaving individual banks at liberty to take decisions regarding empanelment in accordance with law.

6.75. He also relies on the Handbook on Policy, Standards and Procedures for Real Estate Valuation by Banks and Housing Financial Institutions in India published in February 2011 by respondent No.1 - Indian banks association. His submission is that the requirement of this handbook has been complied have not been complied by respondents. In this regard. He refers to Clause 1.4 thereof, which is reproduced hereunder for easy reference:

1.4 Removal

In extreme cases where the valuer has been found to be indulging in unfair practices, guilty



of professional misconduct, violating the code of ethics and professional practice, he shall be removed from the panel. The procedure to be followed by the banks/housing finance institutions shall comprise of the following steps:

- *Issue of show cause notice*
- *Hearing*
- *Appropriate action, including removal from the panel for a period of five years, if charges are found serious.*

6.76. It is his submission that the requirements prescribed therein are mandatory in character and bind member banks while taking action against empanelled valuers. According to him, the respondents have not complied with the safeguards contemplated under the said Handbook.

6.77. Particular reference is made to Clause 1.4 thereof, which provides that removal of a valuer from the panel can be resorted to only in extreme cases where the valuer has been found to be indulging in unfair practices, guilty of professional misconduct, or violating the code of ethics and professional practice. The clause



further prescribes a structured procedure prior to removal, namely:

- 6.77.1. issuance of show cause notice;
- 6.77.2. conduct of hearing;
- 6.77.3. appropriate action, including removal from the panel for a period of five years, if the charges are found serious.

6.78. By placing emphasis on Clause 1.4, learned counsel submits that removal from the panel, and consequential reporting to the caution list, can be justified only upon:

- 6.78.1. A clear finding of unfair practices or professional misconduct;
- 6.78.2. Compliance with the procedural safeguards of notice and hearing;
- 6.78.3. A reasoned decision;
- 6.78.4. Restriction of removal to a maximum period of five years where charges are serious.

6.79. It is contended that in the present case:



- 6.79.1. No finding has been recorded that the Petitioner indulged in unfair practices or violated professional ethics;
 - 6.79.2. No hearing has been afforded;
 - 6.79.3. No reasoned order has been communicated;
 - 6.79.4. The caution listing has effectively operated for a period exceeding five years, thereby violating the temporal limitation contemplated under Clause 1.4.
- 6.80. Learned counsel further refers to the Master Circular on Frauds – Classification and Reporting dated 01.07.2013, issued by the Reserve Bank of India, to contend that different procedural frameworks are prescribed depending upon the quantum and nature of fraud. In the absence of any categorical disclosure as to the extent or classification of the alleged fraud, the Petitioner has been deprived of the opportunity to understand the procedural route adopted by the respondents and to effectively defend himself.



- 6.81. On these premises, it is submitted that the entire process culminating in the inclusion of the Petitioner's name in the TPE Caution List has been undertaken behind his back, without disclosure of material, without affording opportunity of hearing, without recording findings of professional misconduct as contemplated under the Handbook, and without adherence to the structured procedural safeguards. The action, therefore, is arbitrary, violative of principles of natural justice, contrary to the governing policy framework, and liable to be set aside with grant of the reliefs sought in the writ petition.
- 6.82. By referring to Clause 1.4, his submission is that it is only in extreme cases where the valuer has been found to be indulging in unfair practices, guilty of professional misconduct, violating the code of ethics and profile practice that he would be removed from the panel and before such removal, a show cause notice has to be issued, hearing held and the removal is to be restricted to a period of five years if the charges are found serious. He therefore submits that no hearing has been provided, and



the removal having exceeded five years, is in violation of Clause 1.4. By referring to the Master Circular on fraud classification reporting dated July 1, 2013, he submits that there are different kinds of procedures that have been prescribed for alleged frauds on the basis of the quantum of the fraud. Unless it has been categorically shown as to the extent of fraud, the Petitioner is not in a position to categorically state what is the procedure to be followed by the respondents. On that basis, he submits that the entire action on part of the respondent has been carried out behind the back of the Petitioner, violating the principles of natural justice, violating the applicable procedures, and as such, the reliefs, which have been sought for in the writ petition, are required to be granted.

7. Ms.Divya Purandhar, learned counsel appearing for respondents No.1, 3 and 4, that is, the Indian Bank Association, and the banks, submits that:

7.1. Respondent No.4 is a public sector bank and is required to maintain a high degree of financial discipline and institutional integrity. According



to her, when irregularities are noticed in valuation reports, the bank is duty-bound to examine the matter carefully and take appropriate corrective steps. She contends that valuation reports form the basis for determining the quantum of loan to be sanctioned. If a property is overvalued, the bank may grant a higher loan than what the actual value of the security justifies. In the event of default, the bank would then be exposed to loss. Since public funds are involved, the bank cannot afford to ignore negligence or inflated valuation.

- 7.2. She next raises a preliminary objection regarding delay and laches. It is her submission that the show cause notice was issued in April 2018 and the decision to de-empanel and report the Petitioner's name was taken in September 2018. The Petitioner has not been engaged by the bank since 2018. However, the present writ petition has been filed only in the year 2024. According to her, this unexplained delay of nearly six years disentitles the Petitioner to discretionary relief under Article 226. She submits that the delay amounts to



acquiescence. She also points out that the writ petition has been filed after the amalgamation of Andhra Bank with Union Bank of India and contends that this itself shows a lack of bona fides.

7.3. In response to the argument that the Petitioner's fundamental right under Article 19(1)(g) has been violated, she submits that inclusion of the Petitioner's name in the caution list does not prevent him from practising as a valuer altogether. It only means that certain banks may choose not to engage him. He is free to offer his services to other entities. Therefore, according to her, there is no complete prohibition of his profession.

7.4. She further submits that Respondent No.1 – the Indian Banks' Association – is not "State" within the meaning of Article 12 of the Constitution. It is not funded by the Government, does not discharge statutory or regulatory functions, and is merely a voluntary association of banks. It does not exercise supervisory powers over member banks. Hence, she contends that Respondent No.1 is not amenable to writ



jurisdiction. On this ground also, she submits that no direction can be issued to it.

7.5. With regard to the factual process followed by the bank, she submits that irregularities were noticed in certain valuation reports furnished by the Petitioner. These were considered by the competent authority in consultation with the Fraud Risk Management Department. An email dated 06.04.2018 was issued listing out the irregular and inflated valuation reports. Thereafter, a formal show cause notice dated 10.04.2018 was issued from the Head Office of Andhra Bank detailing the irregularities and calling upon the Petitioner to explain why his name should not be deleted from the approved panel and reported to the Indian Banks' Association.

7.6. She submits that the Petitioner did submit his explanation. The explanation was not ignored. Clarifications were sought from the concerned branch, namely, Hagaribommanahalli Branch. After receiving the branch's views, a consolidated statement was prepared and forwarded to the Circle General Manager.



Ultimately, on 20.09.2018, a recommendation was made to de-empanel the Petitioner and to report his name to the IBA. According to her, all internal procedures were duly followed before forwarding the name.

7.7. She emphasises that valuers are third-party professionals engaged by the bank for specific assignments. They are not employees. The relationship is purely contractual. If the bank loses confidence in a valuer on account of negligence or inflated reporting, it is well within its rights to discontinue his services and de-empanel him. A writ court, she submits, cannot compel a bank to continue engaging a professional in whom it has lost confidence. There can be no direction for the specific performance of a contract of service.

7.8. As regards the inclusion of the Petitioner's name in the IBA caution list, she submits that a show cause notice was admittedly issued and replied to. Therefore, the requirement of providing an opportunity was satisfied. After the bank forwarded its recommendation, the matter was considered by the appropriate



forum under Respondent No.1. The bank has no control over the final decision taken by that forum.

7.9. Finally, she submits that the caution list is not a blacklist. It is merely advisory in nature. It serves as a warning to member banks. It is open to any bank to still engage the Petitioner if it so chooses. The caution list is not binding on member banks and does not automatically bar engagement. Therefore, according to her, the consequences alleged by the Petitioner are exaggerated.

7.10. She relies on the judgment of this Court in the case of ***Thimmanna vs. Union Bank of India***⁹, more particularly, paras 2 and 3 thereof, which are reproduced hereunder for easy reference:

2. The vehement submission of the learned counsel for Petitioner that the client could not have been abruptly discontinued on the Panel and without a prior notice, and therefore the impugned Order is vulnerable for challenge, is bit difficult to countenance since empanelment is a matter of discretion of the bank concerned; the exercise of such discretion involves a host of factors including the fiduciary relationship of

⁹ WP No.22279/2021 dated 7.12.2021



'client & counsel', in matters of this kind a Writ Court cannot ordinarily interfere & undertake a deeper examination.

3. The text of the impugned Order cannot be construed as attaching stigma to the Petitioner as a professional; the bank has exercised its prerogative in empaneling the lawyers of its choice and not empaneling the Petitioner; such an exercise cannot be faulted, subject to all just exceptions into which argued case of the Petitioner does not fit.

7.11.By relying on ***Thimmanna***, her submission is that in the said case, this Court was considering a challenge to discontinuation of a professional from the bank's panel. The Court observed that empanelment is essentially a matter within the discretion of the concerned bank. Such discretion, it was held, is exercised on the basis of several factors, including the element of trust and a fiduciary relationship. The Court further held that in matters of empanelment, a writ court would ordinarily not interfere or undertake a deeper examination, since the bank is entitled to choose the professionals it wishes to engage.

7.12.The Court also observed that the order impugned therein did not attach any stigma to the Petitioner as a professional. It was held that



the bank had merely exercised its prerogative in choosing not to empanel the Petitioner and such an exercise, in the absence of special circumstances, could not be faulted.

7.13. Relying on **Thimmanna**, learned counsel submits that the present case stands on similar footing. According to her, inclusion of the Petitioner's name in the caution list does not amount to attaching stigma. It is merely an administrative decision taken in the course of regulating the panel of professionals engaged by the bank. Just as in *Thimmanna*, where discontinuation from the panel was held to be within the bank's discretion and not stigmatic, she submits that the present inclusion in the caution list cannot be treated as punitive or unconstitutional.

7.14. On this basis, she contends that no enforceable legal right of the Petitioner has been infringed and no ground is made out for interference under Article 226 of the Constitution.

7.15. She relies on the judgment of the Hon'ble High Court of Bombay in the case of **Kishor S.Bhat**



vs. Indian Banks' Association¹⁰, more particularly, para 20 thereof, which is reproduced hereunder for easy reference:

20. The burden of proof that the Association is an instrumentality or agency of the "State" is on the Petitioner. On the basis of the materials on record viz. Rules of Indian Banks' Association, in our opinion, it cannot be said that the tests which are relevant for determining whether Respondent Association is an instrumentality or the agency of the State are satisfied. The Association is admittedly an unregistered body. The Association is a private body over which Government has no deep and pervasive control. Having given due consideration to the determinative tests laid down by the Apex Court and in the light of the settled legal position as well as the facts in the present case, we are of the view that Respondent Association is not a "State" within the meaning of the Article 12 of the Constitution of India so as to make it amenable to the writ jurisdiction of this Court.

7.16. By relying on **Kishor S. Bhat** learned counsel submits that in the said decision, the Hon'ble Bombay High Court examined the status of the Indian Banks' Association and considered whether it could be treated as "State" or an instrumentality of the State within the meaning of Article 12 of the Constitution of India. The Court observed that the burden lies on the

¹⁰ 2018 SCC Online Bom 2857



Petitioner to establish that the Association satisfies the determinative tests laid down by the Supreme Court for identifying a body as an instrumentality or agency of the State.

7.17. Upon examining the rules and functioning of the Association, the Bombay High Court held that:

7.17.1. The Association is an unregistered body.

7.17.2. It is essentially a private association.

7.17.3. There is no deep and pervasive control of the Government over it.

7.17.4. The relevant constitutional tests were not satisfied.

7.17.5. Accordingly, it was concluded that the Indian Banks' Association is not "State" within the meaning of Article 12 and therefore not amenable to writ jurisdiction.

7.18. Relying on ***Kishor S. Bhat***, learned counsel submits that Respondent No.1, namely the Indian Banks' Association, cannot be treated as a State or instrumentality of the State. Since it



does not satisfy the tests laid down for inclusion within Article 12, no writ would lie against it. On this ground alone, she submits that the prayer seeking a direction to Respondent No.1 to remove the Petitioner's name from the caution list is not maintainable.

7.19. Article 12 of the Constitution of India, is reproduced hereunder for easy reference:

12. In this part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

7.20. She relies upon the Division Bench judgment of the Hon'ble Madras High Court in the case of **Chairman and Managing Director, UCO Bank vs. K.Marimuthu and ors.,¹¹** more particularly Paras 13, 15 and 17, which are reproduced hereunder for easy reference:

13. The empanelment of lawyers by the banks cannot be on the pedestal of an employment for holding a civil post. The lawyers empaneled by the bank are not governed by the service rules of the bank. The conditions of appointment of the

¹¹ WA Nos.2199/2023 & connected matters dated 2.2.2024



empaneled lawyers are not governed by any statute, rules or regulations.

15. *Each bank has its own procedure for empanelment of the lawyers. The learned Single Judge in the impugned judgment has referred to the circulars issued by the respective nationalized banks and public sector banks providing for the process of empanelment. The procedure prescribed in the said circulars contemplates the criteria for empanelment; process of empanelment; authority for empanelment; preparation of revised list by the zones; distribution/ allocation of works, other conditions for empanelment; review of the performance; parameters for reviewing the performance of the panel advocate; de-paneling of advocate; and review at head office level.*

17. *The relationship between the banks and the empaneled lawyers is purely a professional relationship and not that of a master and servant. The lawyers empaneled by the banks, during their performance of the duty, are not holding any civil post. They are not government servants and/or government employees. The empanelment of lawyers is at the pleasure of the bank. The sine qua non is that the lawyers selected by the COPY bank should be duly qualified, competent and worthy to represent it. The determination of their engagement is also at the pleasure of the bank. So also, the lawyer engaged by the bank has a right to terminate his services with the bank. It cannot be said that their appointment is a tenure appointment.*



- 7.21. By relying on ***Marimuthu*** learned counsel submits that in the said decision, the Hon'ble Division Bench examined the nature of empanelment of lawyers by banks and held that such empanelment cannot be equated with employment to a civil post. The Court observed that empanelled lawyers are not governed by the service rules of the bank, nor are their conditions of appointment controlled by any statutory provisions. Each bank follows its own internal procedure for empanelment, including criteria for selection, allocation of work, performance review, and de-panelment.
- 7.22. The Hon'ble Division Bench further held that the relationship between a bank and an empanelled lawyer is purely professional in nature and not that of master and servant. Empanelled lawyers do not hold any civil post. They are neither government servants nor government employees. Their engagement is at the pleasure of the bank. The Court emphasised that the bank must have confidence in the competence and integrity of the professionals it engages, and the continuation or termination of such engagement lies within its discretion.



Likewise, the lawyer is also free to terminate the engagement. It is not a tenure appointment.

7.23. Relying on ***Marimuthu***, learned counsel submits that the same principle applies to valuers engaged by banks. The relationship between the Petitioner and the respondent banks is purely professional and contractual. The Petitioner does not hold a civil post, nor is he a government employee. His empanelment is at the pleasure of the bank. The bank, having lost confidence in him on account of alleged irregularities in valuation, is entitled to discontinue his engagement.

7.24. She submits that the Petitioner cannot seek protection as if he holds a statutory or tenure-based appointment. No vested right exists to continue on the panel. Therefore, no direction can be issued compelling the bank to continue or renew its engagement, and the writ petition, to that extent, is not maintainable. In this case, the submission is that the relationship between the empanelled lawyers and the bank is a purely professional relationship, and not that of



a master and servant. An empanelled lawyer would not be holding any civil post. They are not government servants or government employees. As such, they would be empanelled at the pleasure of the bank. The engagement could be terminated either by the bank or by the lawyer. Such engagement is not a tenure appointment for the Petitioner to seek any protection thereof.

7.25. She relies on the judgment of the Hon'ble Rajasthan High Court in the case of ***Bhanwar Singh Rajpurohit vs. Dena Bank (Now Bank of Baroda)***¹², more particularly para 18 thereof, which is reproduced hereunder for easy reference:

18. *This Court further finds that the respondent-Bank has not launched any proceeding either civil or criminal or any other proceeding against the present Petitioner in regard to the issue in question. Moreover, the inclusion of the Petitioner's name in the caution list maintained by the IBA cannot be said to be a stigma upon the present Petitioner, as the respondent -Bank has every right to remain cautioned while appointing a lawyer of its choice, like any other ordinary client. Thus, such inclusion, in the opinion of this Court, is a mere caveat for the banks of the country to exercise their discretion*

¹² 2021 SCC Online Raj 4490



and remain cautious, while making appointment of a panel lawyer to represent them in the Courts. This Court is thus of the firm opinion that the act of the respondent-. Bank cannot be said to be arbitrary or contrary to law in any manner, so as to warrant any interference by this Court.

- 7.26. By relying on **Bhanwar Singh Rajpurohit**, her submission is that in the said case, the Hon'ble Rajasthan High Court was dealing with a challenge to the inclusion of a lawyer's name in the caution list maintained by the Indian Banks' Association. The Court noted that no civil or criminal proceedings had been initiated against the Petitioner therein. It further held that inclusion of the Petitioner's name in the caution list could not be treated as attaching stigma. According to the Court, a bank, like any other client, has the right to remain cautious while appointing a professional of its choice. The caution list was viewed as a caveat to banks across the country to exercise their discretion carefully while engaging panel lawyers.
- 7.27. The Hon'ble Rajasthan High Court therefore held that such inclusion could not be termed arbitrary or illegal so as to warrant interference in writ jurisdiction.



7.28. Relying upon **Bhanwar Singh Rajpurohit**, learned counsel submits that inclusion of the Petitioner's name in the IBA caution list does not amount to imposition of stigma or penalty. It is merely an advisory measure enabling banks to exercise caution. It does not automatically prohibit engagement. It only alerts member banks. Therefore, according to her, the action of the respondents cannot be characterised as arbitrary, punitive, or unconstitutional, and no ground is made out for interference by this Court.

7.29. She relies upon the decision of the Hon'ble Andhra Pradesh High Court in the case of **RKL Prasad vs. State Bank of India and others**¹³ more particularly Paras 11 and 13 thereof, which are reproduced hereunder for easy reference:

11. *On a perusal of the material on record, it is evident that before de-paneling the Petitioner, a notice dated 29.11.2018 was issued duly setting out the lapses on the part of the writ petitioner. In reply to the same, the Petitioner submitted his explanation on 22.12.2018 and thereafter a decision was taken by the State Bank of India to de-panel the Petitioner and in the said*

¹³ 2024 SCC Online AP 730



circumstances, as rightly contended by the learned counsel for the respondent-Bank there is no violation of principles of natural justice. As to whether such decision on the part of the State Bank of India is arbitrary and the same warrants interference cannot be gone into, in the absence of any specific challenge to the proceedings dated 02.02.2019. Even otherwise, this Court can only examine the decision making process, which appears to have been followed scrupulously. Therefore, even in the absence of challenge to the said decision, this Court is satisfied that the de-panelment of the Petitioner warrants no interference.

13. *From a reading of the above mentioned guideline, irrespective of the statutory nature of the same, in the considered opinion of this Court, it gives discretion to the Bank to re-empanel a valuer on very selective basis. Such a discretion cannot be subject matter of judicial scrutiny. Further, as per the guidelines for empanelment of a valuer of State Bank of India, Stressed Assets Resolution Group, Corporate Centre, Mumbai, which came into effect on 01.10.2019, filed along with the counter affidavit, the competent authority may de-list/de-panel a valuer on account of misconduct for the instances, which inter alia includes 'under/over valuation value of assets' [Guideline No. 5(a)(i)]. It also contemplates certain conditions to be fulfilled for the valuers for empanelment including that "the valuer has not been removed/dismissed from Valuation related service (previous employment) earlier". In the light of the above stated guidelines, which are in vogue and for the reasons/conclusions recorded supra, this Court is of the considered opinion that the relief as sought for by the Petitioner deserves no consideration.*



- 7.30. By relying on **RKL Prasad**, she submits that in that case, the Hon'ble Andhra Pradesh High Court examined a challenge to the de-panelment of a valuer. The Court noted that prior to de-panelment, a notice had been issued setting out the alleged lapses. The petitioner therein had submitted his explanation. Thereafter, a decision was taken by the State Bank of India to de-panel him. The Court held that in such circumstances, there was no violation of principles of natural justice, since notice had been given and explanation considered
- 7.31. The Court further observed that judicial review under Article 226 is limited to examining the decision-making process and not the merits of the decision itself. In the absence of a specific challenge to the decision of de-panelment, the Court found no ground to interfere. It also held that the applicable guidelines vested discretion in the bank to re-empanel or de-panel valuers, including in cases of under-valuation or over-valuation of assets. Such discretion, the Court held, cannot ordinarily be subjected to judicial



scrutiny unless the process is shown to be arbitrary or illegal.

7.32. Relying on the aforesaid decision, learned counsel submits that in the present case also, a show cause notice was issued, the Petitioner submitted his explanation, and thereafter a decision was taken by the competent authority. According to her, once the procedural requirement of issuing notice and considering the explanation has been complied with, the scope of interference by this Court is extremely limited. This Court, she submits, is concerned only with whether the decision-making process was followed, and not whether the decision was correct on merits.

7.33. She therefore contends that since the internal process was followed and the decision was taken by the competent authority in accordance with the guidelines, the same is not amenable to interference in writ jurisdiction.

7.34. Her submission is that the entire process has been followed in a proper manner. The Petitioner cannot claim any violation of its right. The decision taken by the Bank to refer the



matter to the IBA for inclusion in the name in the caution list is proper and correct, and does not require any interference. On the above basis, she submits that the writ petition as filed is required to be dismissed.

8. Heard Sri. Prabhu N. Savanur, learned counsel for the Petitioner, Smt. Divya Purandhar, learned counsel for respondents No.1, 3 and 4 perused papers, the points that would arise for determination are:

- i. **Whether the writ petition is liable to be dismissed on the ground of delay, laches or acquiescence, having regard to the fact that the Petitioner's name was allegedly included in the TPE Caution List in the year 2019, whereas the present petition has been instituted in the year 2024; and whether such delay disentitles the Petitioner to the discretionary relief under Article 226 of the Constitution of India?**
- ii. **Whether Respondent No.1 – Indian Banks' Association, in maintaining and publishing the TPE Caution List and acting upon recommendations of member banks, performs a public or quasi-public function amenable to judicial review under Article 226 of the Constitution of India?**
- iii. **Whether the process culminating in the inclusion of the Petitioner's name in the TPE Caution List was undertaken in strict**



compliance with the applicable Procedural Guidelines governing reporting of Third Party Entities (TPEs), including the constitution and functioning of the "Forum" contemplated therein, the investigative and evaluative steps prescribed under Guideline No.6, and the safeguards envisaged under Clause 1.4 of the Handbook on Policy, Standards and Procedures for Real Estate Valuation by Banks and Housing Finance Institutions in India (February 2011)?

- iv. Whether the principles of natural justice were complied with prior to inclusion of the Petitioner's name in the TPE Caution List, in particular, whether (i) the Petitioner's reply to the show cause notice was duly considered, (ii) opportunity of hearing was afforded where warranted, (iii) a reasoned decision was recorded by the competent authority, and (iv) such decision was communicated to the Petitioner before reporting his name to Respondent No.1?**
- v. Whether there exists a clear, categorical and recorded finding that the Petitioner indulged in unfair practices, professional misconduct, violation of code of ethics, or acted with malafide intention of the nature contemplated under the governing guidelines and handbook; and whether mere negligence or gross negligence, absent proof of malafide intention or fraud attributable to the Petitioner, would justify inclusion in the TPE Caution List?**



- vi. Whether the alleged discrepancies or irregularities attributed to the Petitioner fall within the professional scope and responsibilities of a civil engineer and approved valuer, or whether they pertain to matters such as scrutiny of title, verification of documents and legal due diligence, which lie within the exclusive domain of the bank's legal counsel?**
- vii. Whether inclusion of the Petitioner's name in the TPE Caution List, having industry-wide reputational and professional consequences, constitutes a stigmatic action attracting civil consequences, thereby necessitating strict adherence to procedural safeguards and higher standards of fairness?**
- viii. Whether such inclusion amounts to an unreasonable, arbitrary or disproportionate restriction on the Petitioner's right to practise his profession under Article 19(1)(g) of the Constitution of India, and if so, whether the same can be justified as a reasonable restriction in the interests contemplated under Article 19(6)?**
- ix. Whether the reporting and inclusion of the Petitioner's name in the TPE Caution List is sustainable in the absence of disclosure of the nature, classification and quantum of the alleged fraud in terms of the applicable RBI Master Circular on Frauds – Classification and Reporting?**
- x. In the light of the findings on the above issues, whether the Petitioner is entitled**



to a writ of mandamus directing removal of his name from the TPE Caution List and to consequential directions regarding continuation or reconsideration of empanelment by the respondent banks?

xi. What order?

9. I answer the above points as follows:

10. **ANSWER TO POINT NO.1: Whether the writ petition is liable to be dismissed on the ground of delay, laches or acquiescence, having regard to the fact that the Petitioner's name was allegedly included in the TPE Caution List in the year 2019, whereas the present petition has been instituted in the year 2024; and whether such delay disentitles the Petitioner to the discretionary relief under Article 226 of the Constitution of India?**

10.1. Sri. Prabhu N. Savanur, learned counsel for the Petitioner, does not specifically address the question of delay in any detailed manner. However, it is implicit in his submissions that the cause of action in the present case is a continuing one. The Petitioner's name continues to remain in the TPE Caution List maintained by respondent No.1. So long as the name continues on the caution list, the Petitioner is suffering from the adverse consequences thereof, including denial of professional work and damage to reputation. The inclusion in the



caution list is not a one-time act that exhausts itself; it is a continuing wrong that inflicts fresh injury upon the Petitioner with each passing day.

- 10.2. It is further the case of the Petitioner that he came to know of the inclusion only when he made inquiries as to why no work was being allotted to him by respondents No.4 and 5. There was no formal communication or order conveyed to him regarding the inclusion of his name in the caution list. In the absence of such communication, the Petitioner cannot be attributed with knowledge from the date of actual inclusion.
- 10.3. The submission is that where fundamental rights are violated by way of continuing action, the doctrine of delay and laches cannot be applied in its full rigour so as to deny relief to the aggrieved party.
- 10.4. Smt. Divya Purandhar, learned counsel for respondents No.1, 3 and 4, raises a preliminary objection regarding delay and laches. It is her submission that the show cause notice was issued in April 2018, and the decision to de-



empanel and report the Petitioner's name was taken in September 2018. The Petitioner has not been engaged by the bank since 2018. However, the present writ petition has been filed only in the year 2024. According to her, this unexplained delay of nearly six years disentitles the Petitioner to discretionary relief under Article 226 of the Constitution of India.

10.5. She submits that the delay amounts to acquiescence. She also points out that the writ petition has been filed after the amalgamation of Andhra Bank with Union Bank of India and contends that this itself demonstrates a lack of bona fides on the part of the Petitioner.

10.6. At the outset, it is necessary to appreciate the nature of the impugned action. The inclusion of the Petitioner's name in the TPE Caution List is not a one-time act that exhausts itself on a particular date. The caution list is a live, continuously maintained and periodically updated document published by respondent No.1 on its website. So long as the Petitioner's name remains on this list, it continues to operate as an adverse entry against him,



signalling to all member banks across the country that the Petitioner is an entity against whom caution ought to be exercised. The consequence is that banks, upon accessing the caution list, either decline to empanel the Petitioner or discontinue existing engagements. This is precisely what has happened in the present case, as the Petitioner has not received any work from the respondent banks since his inclusion.

10.7. In this context, this Court is of the considered opinion that the inclusion of the Petitioner's name in the TPE Caution List constitutes a continuing wrong. The injury inflicted upon the Petitioner is not confined to the date of initial inclusion but is renewed with each passing day so long as the name remains on the list. The cause of action, therefore, is a recurring one, giving rise to a fresh cause of action each day the name continues to appear.

10.8. It is well-settled that where the action complained of is continuing in nature, the doctrine of delay and laches cannot operate as an absolute bar to relief under Article 226 of



the Constitution of India. The jurisdiction under Article 226 is discretionary, but such discretion must be exercised judiciously. Where a fundamental right is being infringed on a continuing basis, mere passage of time cannot be permitted to operate as a shield for the perpetuation of an illegality.

10.9. Furthermore, the material on record discloses that no formal order or communication was sent to the Petitioner, intimating him of the decision to include his name in the caution list. The Petitioner contends that he came to know of this fact only subsequently, when he made inquiries regarding non-allotment of work. This contention has not been specifically rebutted by the respondents with any documentary proof of communication. In the absence of proof that the decision was communicated to the Petitioner at or around the time it was taken, it would be unjust to fix the starting point of delay from the date of the decision, which was itself taken behind the Petitioner's back.

10.10. The contention of Smt. Divya Purandhar that the writ petition has been filed after the



amalgamation of Andhra Bank with Union Bank of India, and that this shows a lack of bona fides, does not commend itself to this Court. The amalgamation of Andhra Bank with Union Bank of India is a statutory event that does not, in any manner, affect the Petitioner's right to challenge the illegality of his inclusion in the caution list. If anything, the amalgamation could have created confusion regarding the identity of the authority against whom action was to be taken, which may partly explain the delay.

10.11. The judgment relied upon by Smt. Divya Purandhar, namely, **Thimmanna vs. Union Bank of India**, does not advance the respondents' case on this point. In **Thimmanna**, this Court was dealing with a challenge to discontinuation from a bank's panel, which is a distinct matter from inclusion in an industry-wide caution list. The question of delay was not the central issue in that case, and the ratio thereof does not establish any principle that would compel dismissal of the present petition on the ground of delay alone.



10.12. On the other hand, the decisions relied upon by Sri. Prabhu N. Savanur, learned counsel for the Petitioner, demonstrate that Courts across the country, including this Court in **Shri H.T. Vasudev vs. State Bank of India & Ors.** and in **Veershetty vs. The Chairman, IBS & Ors.**, have entertained and allowed writ petitions challenging inclusion in the TPE Caution List without dismissing them on the ground of delay. In both those decisions, the writ petitions were entertained on their merits notwithstanding the passage of time between the impugned action and the filing of the petition.

10.13. In view of the foregoing, I answer point no. (i) by holding that the writ petition is not liable to be dismissed on the ground of delay, laches or acquiescence. The inclusion of the Petitioner's name in the TPE Caution List constitutes a continuing wrong. The cause of action is recurring. No communication of the decision was made to the Petitioner. The delay, such as it is, does not disentitle the Petitioner from seeking discretionary relief under Article 226 of the Constitution of India.



11. **ANSWER TO POINT NO.2: Whether Respondent No.1 – Indian Banks’ Association, in maintaining and publishing the TPE Caution List and acting upon recommendations of member banks, performs a public or quasi-public function amenable to judicial review under Article 226 of the Constitution of India?**

11.1. Sri. Prabhu N. Savanur, learned counsel for the Petitioner, submits that though respondent No.1 - Indian Banks’ Association may not technically be ‘State’ within the meaning of Article 12 of the Constitution of India, it performs functions that are deeply intertwined with the public interest and the regulatory framework governing the banking sector. The TPE Caution List maintained and published by respondent No.1 has a direct and tangible impact on the livelihood and professional reputation of third-party entities, including the Petitioner. The caution list is utilised by all member banks as a reference tool while deciding on the empanelment and engagement of professionals.

11.2. His submission is that the writ petition is directed not merely against respondent No.1 but also against respondents No.2 to 5, which are banks and are indisputably public sector



undertakings and instrumentalities of the State within the meaning of Article 12. The action of these banks in reporting the Petitioner's name for inclusion in the caution list and in de-empanelling him is therefore amenable to challenge under Article 226.

11.3. In any event, under Article 226 of the Constitution, writ jurisdiction can be exercised against 'any person or authority', which is a wider expression than 'State' under Article 12. Where a private body or association discharges a public function or a function that has public consequences, it is amenable to judicial review under Article 226.

11.4. Smt. Divya Purandhar, learned counsel for respondents No.1, 3 and 4, submits that respondent No.1 - Indian Banks' Association is not 'State' within the meaning of Article 12 of the Constitution. It is not funded by the Government, does not discharge statutory or regulatory functions, and is merely a voluntary association of banks. It does not exercise supervisory powers over member banks. Hence, she contends that respondent No.1 is



not amenable to writ jurisdiction. On this ground also, she submits that no direction can be issued to it.

11.5. In support, she relies upon the judgment of the Hon'ble Bombay High Court in **Kishor S. Bhat vs. Indian Banks' Association**, wherein it was held that the Indian Banks' Association is not a 'State' within the meaning of Article 12. The Court observed that the Association is an unregistered body, a private body over which the Government has no deep and pervasive control, and that the determinative tests for identifying an instrumentality of the State were not satisfied.

11.6. Article 12 of the Constitution of India reads as follows:

"12. Definition - In this part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India."

11.7. It is true that the Hon'ble Bombay High Court in **Kishor S. Bhat vs. Indian Banks' Association** held that the Indian Banks' Association is not 'State' within the meaning of



Article 12 of the Constitution. This Court takes note of the said finding. However, the question before this Court is not merely whether the IBA is 'State' under Article 12, but whether it is amenable to the writ jurisdiction of this Court under Article 226 of the Constitution.

11.8. The scope of Article 226 is wider than that of Article 12. Article 226 empowers the High Court to issue writs to 'any person or authority', including 'any Government', for the enforcement of fundamental rights and 'for any other purpose'. The expression 'any person or authority' in Article 226 is not confined to 'State' as defined in Article 12. Where a private body performs a public function or a function intertwined with governmental or statutory activity, and where the rights of persons are affected thereby, the High Court can exercise its writ jurisdiction.

11.9. In the present case, the TPE Caution List maintained by respondent No.1 is not a purely private or internal document. It is published on the website of the Indian Banks' Association and is accessible to all member banks. It serves



as a centralised repository of adverse information regarding third-party entities, and member banks across the country rely upon it while deciding whether to empanel or continue engagement with professionals. The inclusion of a person's name in the said list has the effect of a virtual industry-wide bar, depriving the affected person of professional opportunities across the entire banking sector. The impact is akin to a blacklist, notwithstanding the respondents' characterisation of it as merely 'advisory'.

11.10. Further, the very existence and functioning of the caution list is intertwined with the regulatory framework. The Procedural Guidelines for Reporting Names of Third Parties involved in Frauds to IBA were formulated pursuant to directions and circulars issued by respondent No.2 - Reserve Bank of India, which is a statutory body. The reporting mechanism under these guidelines is linked to the RBI's Fraud Reporting and Monitoring System (FrMS). The caution list, therefore, is not a purely private initiative but is a product of the



regulatory ecosystem governing the banking industry.

11.11. Additionally and more fundamentally, the present writ petition is not directed solely against respondent No.1. It is also directed against respondents No.3 and 4, which are nationalised banks, and respondent No.5, which is a scheduled commercial bank. These banks are indisputably instrumentalities of the State within the meaning of Article 12, or at the very least, are 'authorities' amenable to writ jurisdiction under Article 226. The impugned action, namely the reporting of the Petitioner's name for inclusion in the caution list, was initiated by these banks. The role of respondent No.1 is to act upon the recommendation of its member banks and maintain the caution list. Since the reporting banks are amenable to writ jurisdiction, and since the action taken by respondent No.1 is a direct consequence of the banks' reporting, the entire chain of action is amenable to judicial review.

11.12. In this regard, this Court takes note of the fact that in the decisions relied upon by the



Petitioner, including **Shri H.T. Vasudev vs. State Bank of India & Ors., Veershetty vs. The Chairman, IBS & Ors., M/s. G.P. Sankaram and Associates vs. Union Bank of India and Ors., N.R. Raghuram & Co. vs. Indian Banks' Association and Ors., P. Ravi Kumar vs. The Chief General Manager and Another, P. Subramani vs. The Assistant General Manager and Another, S. Karthikeyan vs. Tamil Nadu Mercantile Bank Ltd. and Another, and M/s. Vitec Consultancy vs. Indian Banks' Association and Ors.**, various High Courts including this Court, the Hon'ble High Court of Telangana and the Hon'ble High Court of Madras have entertained writ petitions against the Indian Banks' Association seeking removal of names from the TPE Caution List and have granted relief. The writ jurisdiction was not declined on the ground that the IBA is not amenable to such jurisdiction.

11.13. Even in the decisions relied upon by the respondents, such as **RKL Prasad vs. State Bank of India and Others**, the Hon'ble Andhra Pradesh High Court entertained the writ



petition on merits and decided it, without raising any jurisdictional bar regarding the IBA's amenability to writ jurisdiction. Similarly, in **Bhanwar Singh Rajpurohit vs. Dena Bank (Now Bank of Baroda)**, the Hon'ble Rajasthan High Court examined the challenge to caution listing on merits.

11.14. The judgment of the Hon'ble Bombay High Court in **Kishor S. Bhat** dealt with the specific question of whether the IBA is 'State' under Article 12. While this Court respects that finding, the broader question in the present case is whether the IBA, in maintaining and publishing the caution list, which has far-reaching consequences affecting the livelihood and reputation of professionals, performs a function that is amenable to judicial review under Article 226. This Court is satisfied that it does. The function performed by the IBA in maintaining the TPE Caution List is a public function with profound consequences for affected individuals. The caution list operates as a centralised mechanism that effectively determines whether a professional can practice in the banking sector. Such a function,



regardless of the private character of the body performing it, is amenable to judicial review.

11.15. For the foregoing reasons, I answer Point no.2 by holding that respondent No.1 - Indian Banks' Association, in maintaining and publishing the TPE Caution List and acting upon recommendations of member banks, performs a public or quasi-public function that is amenable to judicial review under Article 226 of the Constitution of India. The writ petition is maintainable against respondent No.1, and this Court has jurisdiction to issue appropriate writs, orders or directions.

12. **ANSWER TO POINT NO.3: Whether the process culminating in the inclusion of the Petitioner's name in the TPE Caution List was undertaken in strict compliance with the applicable Procedural Guidelines governing reporting of Third Party Entities (TPEs), including the constitution and functioning of the "Forum" contemplated therein, the investigative and evaluative steps prescribed under Guideline No.6, and the safeguards envisaged under Clause 1.4 of the Handbook on Policy, Standards and Procedures for Real Estate Valuation by Banks and Housing Finance Institutions in India (February 2011)?**

12.1. Sri. Prabhu N. Savanur, learned counsel for the Petitioner, submits that respondents No.3 and 4



have not followed the procedure prescribed by the Indian Banks' Association. He relies upon Rule 5 of the Procedural Guidelines for Reporting Names of Third Parties involved in Frauds to IBA for inclusion in the caution list, which mandates the constitution of an independent and empowered Forum to evaluate the role of a Third Party Entity in a fraud or loss event.

12.2. According to Rule 5, the Forum is required to consist of three to five members of sufficient seniority from various control functions, none of whom should have investigated the case. The Forum is required to receive investigation reports, seek an explanation in writing from the TPE, provide an opportunity to the TPE to present his case, discuss and evaluate the responses, seek further clarifications, decide on the involvement or otherwise of the TPE, and only then recommend inclusion in the caution list.

12.3. He further relies on Guideline No.6, which prescribes a detailed step-by-step process for evaluation and reporting. This includes



preparation of product-wise standard investigation procedures by the investigating team, a detailed investigation report specifying the extent of involvement, forwarding of the report to the Forum within 10 days, review by the Forum guided by principles of natural justice, a considered view on whether to include the TPE, issuance of a letter seeking explanation if malafide intent is suspected, consideration of the TPE's response, a reasoned decision, and communication of the outcome to the TPE.

- 12.4. His submission is that the respondent banks have not demonstrated compliance with any of these steps. There is no evidence that a Forum was constituted, that an investigation report was prepared in the prescribed format, that the Forum deliberated upon the matter, or that the process prescribed under Guideline No.6 was followed.
- 12.5. He further relies on Clause 1.4 of the Handbook on Policy, Standards and Procedures for Real Estate Valuation by Banks and Housing Finance Institutions in India (February 2011), which



provides that removal from the panel in extreme cases must follow a structured procedure comprising issuance of a show-cause notice, hearing, and appropriate action. Clause 1.5 provides that the names of valuers removed shall be reported to the Indian Banks' Association, which in turn shall place the names on its caution list. He submits that even the mandatory pre-conditions of Clause 1.4 have not been satisfied.

- 12.6. Smt. Divya Purandhar, learned counsel for respondents No.1, 3 and 4, submits that the internal process was duly followed. According to her, irregularities were noticed in the Petitioner's valuation reports. These were considered by the competent authority in consultation with the Fraud Risk Management Department. An email dated 06.04.2018 was issued listing out the irregular and inflated valuation reports. Thereafter, a formal show cause notice dated 10.04.2018 was issued from the Head Office of Andhra Bank detailing the irregularities and calling upon the Petitioner to explain. The Petitioner submitted his explanation. Clarifications were sought from the



Hagaribommanahalli Branch. A consolidated statement was prepared and forwarded to the Circle General Manager. Ultimately, on 20.09.2018, a recommendation was made to de-empanel the Petitioner and report his name to the IBA.

- 12.7. She further submits that the decision to refer the matter to the IBA was taken in accordance with the bank's internal processes and that all procedures were duly followed.
- 12.8. She relies upon **RKL Prasad vs. State Bank of India and Others**, wherein the Hon'ble Andhra Pradesh High Court held that where a notice was issued, explanation considered, and a decision taken by the competent authority, the decision-making process could not be faulted.
- 12.9. The Procedural Guidelines for Reporting Names of Third Parties involved in Frauds to IBA prescribe a detailed and structured process. Rule 5 mandates the constitution of an independent and empowered Forum. The composition, quorum, periodicity and functions of this Forum are set out in detail. The text of



Rule 5 is reproduced hereunder for easy reference:

"5. Forum to evaluate the role of a Third Party Entity in a fraud/loss event – *It is proposed that an independent and empowered forum be set up to evaluate the role of TPEs in fraud cases. a. Composition of the Forum – The Forum could consist of 3 to 5 members of sufficient seniority from the various control functions. One person among the above members will play role of coordinator. This could typically be the group which reports frauds to RBI. The group which had used the services of TPE shall also be part of the Forum to decide on the particular case. While the Chief Vigilance Officer of the bank could be a member of the Forum, the Forum shall not have any of the persons who investigated the case."*

12.10. Guideline No.6 prescribes the process of evaluation and reporting. The relevant provisions are extracted hereunder:

"6. Process of evaluation of involvement of TPE and reporting to IBA – *a. Investigating teams in the bank should prepare product-wise standard investigation procedure, including a detailed checklist of points to be covered in a case. b. If during the investigation of a fraud, it emerges that third parties are involved, the investigation report should contain the details of the third parties and the extent of*



involvement in the fraud (negligence or malafide intention). ... f. The Forum will be guided by the principles of natural justice and act independently and impartially. g. The Forum will take a considered view when isolated cases of negligence/gross negligence on the part of the TPE is reported as to the desirability of recommending inclusion of the TPE in the caution list. It may not be fair to caution list a TPE for a reported instance of negligence when malafide intentions are not involved. h. If the Forum feels that the intentions of the TPE were malafide, the Forum will ask the concerned business/operations group to write to the TPE concerned and seek explanation. ... l. If the members of the Forum do not find the explanation to be acceptable, they will recommend sending of the name of the TPE to IBA. m. Accordingly, the Forum will send the name to IBA in the format specified by IBA. This will also be conveyed to the TPE by the concerned group in the form of a written communication."

12.11. Clause 1.4 of the Handbook on Policy, Standards and Procedures for Real Estate Valuation by Banks and Housing Finance Institutions in India (February 2011) provides:

"1.4 Removal – *In extreme cases where the valuer has been found to be indulging in unfair practices, guilty of professional misconduct, violating the code of ethics and professional*



practice, he shall be removed from the panel. The procedure to be followed by the banks/housing finance institutions shall comprise of the following steps: - issue of show cause notice; - hearing; - appropriate action, including removal from the panel for a period of five years, if charges are found serious."

12.12. Having extracted the relevant provisions, this Court proceeds to examine whether the process adopted by the respondent banks was in compliance therewith.

12.13. **Firstly, as regards the constitution and functioning of the Forum under Rule 5:**

There is no material placed on record by the respondents to demonstrate that a Forum as contemplated under Rule 5 was ever constituted to evaluate the Petitioner's role in the alleged irregularities. There is no evidence of any resolution, minutes of meeting, or order constituting such a Forum. There is no evidence that the Forum comprised three to five members of sufficient seniority from various control functions, or that it met, deliberated, and recorded its proceedings. The respondents have not produced any such documentation.



12.14. Smt. Divya Purandhar submits that the matter was considered by the competent authority in consultation with the Fraud Risk Management Department. However, consultation with a department is not the same as deliberation by the Forum contemplated under Rule 5. The Guidelines specifically require an independent and empowered Forum with defined composition, quorum and functions. A departmental consultation or exchange of emails cannot be a substitute for the structured deliberation mandated by Rule 5.

12.15. **Secondly, as regards the investigative and evaluative steps under Guideline No.6:** The Guidelines require that the investigating team prepare a product-wise standard investigation procedure, that the investigation report contain details of the extent of involvement of the TPE (whether negligence or malafide intention), that the report be forwarded to the Forum within 10 days, and that the Forum review the report and act independently and impartially, guided by principles of natural justice. There is no evidence that any such investigation report was prepared in the prescribed format, or that it



categorically stated the nature and extent of the Petitioner's involvement, distinguishing between negligence and malafide intention. The show cause notice refers to 'irregularities' and 'inflated valuation', but does not make any categorical finding of malafide intent.

12.16. Guideline No.6(g) specifically provides that the Forum shall take a considered view when isolated cases of negligence or gross negligence are reported, and that *'It may not be fair to caution list a TPE for a reported instance of negligence when malafide intentions are not involved.'* This is a crucial safeguard, which means that mere negligence, even if established, does not justify inclusion in the caution list. Only where a malafide intention is found does the further process of seeking explanation and ultimately reporting to IBA get triggered. There is nothing on record to show that the Forum (assuming it was constituted, which itself is not demonstrated) applied its mind to this distinction.

12.17. **Thirdly, as regards the safeguards under Clause 1.4 of the Handbook:** Clause 1.4



mandates three distinct steps before removal from the panel: (a) issuance of a show cause notice, (b) hearing, and (c) appropriate action. While a show-cause notice was admittedly issued on 10.04.2018, no hearing was conducted. The Petitioner submitted a reply, but the reply is not the same as a hearing. The Handbook specifically uses the word 'hearing', which implies an opportunity to be heard, an opportunity to present one's case, and an opportunity to respond to the material relied upon. Mere submission of a written reply, without any interaction, deliberation or hearing, does not satisfy this requirement.

12.18. The Hon'ble High Court of Telangana in **M/s. G.P. Sankaram and Associates vs. Union Bank of India and Ors.** examined a strikingly similar fact situation. In that case, the Court referred to Circular No.139 dated 20.07.2018, which prescribed detailed guidelines for depanelment and reporting to IBA. The Court found that though a show cause notice had been issued and a reply submitted, the subsequent mandatory procedural safeguards had not been followed. The explanation was not



considered in accordance with the prescribed procedure, and the decision was not communicated. The Court held that non-compliance with the principles of natural justice amounted to arbitrariness and directed removal from the caution list. The principle emerging from **Sankaram** squarely applies to the present case.

12.19. Similarly, in **N.R. Raghuram & Co. vs. Indian Banks' Association and Ors.**, the Hon'ble Madras High Court found that the hosting of the Petitioner's name in the caution list was effected without compliance with the mandatory procedure under Clause 1.4 of the Handbook. The Court held that in the absence of compliance with the prescribed procedure, the caution listing was arbitrary and unconstitutional. This principle was followed and reiterated in **P. Ravi Kumar vs. The Chief General Manager and Another, P. Subramani vs. The Assistant General Manager and Another**, and **M/s. Vitec Consultancy vs. Indian Banks' Association and Ors.**



12.20. The reliance placed by the respondents on **RKL Prasad vs. State Bank of India and Others** is distinguishable. In **RKL Prasad**, the Hon'ble Andhra Pradesh High Court found that a notice had been issued, explanation submitted and considered, and a decision taken. The Court was satisfied that the decision-making process had been followed. In the present case, however, the respondents have not demonstrated compliance with the structured multi-step process prescribed under the Procedural Guidelines (Rules 5 and 6) and the Handbook (Clause 1.4). The issuance of a show cause notice alone, without the constitution of a Forum, without a structured investigation report, without a hearing, and without communication of a reasoned decision, does not amount to compliance with the prescribed procedure.

12.21. For the foregoing reasons, I answer Point No. (iii) by holding that the process culminating in the inclusion of the Petitioner's name in the TPE Caution List was not undertaken in compliance with the applicable Procedural Guidelines governing reporting of Third Party Entities, the



constitution and functioning of the Forum, the investigative and evaluative steps prescribed under Guideline No.6, or the safeguards envisaged under Clause 1.4 of the Handbook. The process was deficient at every material stage.

13. **ANSWER TO POINT NO.4: Whether the principles of natural justice were complied with prior to inclusion of the Petitioner's name in the TPE Caution List, in particular, whether (i) the Petitioner's reply to the show cause notice was duly considered, (ii) opportunity of hearing was afforded where warranted, (iii) a reasoned decision was recorded by the competent authority, and (iv) such decision was communicated to the Petitioner before reporting his name to Respondent No.1?**

13.1. Sri. Prabhu N. Savanur, learned counsel for the Petitioner, submits that the inclusion of the Petitioner's name in the caution list is violative of principles of natural justice. According to him, except for the issuance of a show cause notice dated 10.04.2018, there is no other correspondence that has been issued. The reply submitted by the Petitioner has not been considered. No hearing has been provided to the Petitioner. No order has been passed thereon and communicated to the Petitioner.



The mandatory procedure prescribed under the Procedural Guidelines for Reporting Names of Third Parties to IBA for inclusion in the caution list has not been followed.

13.2. In support, he relies upon **Veershetty vs. The Chairman, IBS & Ors.**, wherein this Court held that non-consideration of the Petitioner's reply and failure to provide reasonable opportunity constituted sufficient ground to set aside the impugned action. He also relies upon **M/s. G.P. Sankaram and Associates vs. Union Bank of India and Ors.**, wherein the Hon'ble High Court of Telangana held that non-compliance with natural justice amounted to arbitrariness.

13.3. Smt. Divya Purandhar, learned counsel for respondents No.1, 3 and 4, submits that a show cause notice was admittedly issued and replied to. Therefore, the requirement of providing an opportunity was satisfied. She submits that the Petitioner's explanation was not ignored. Clarifications were sought from the Hagaribommanahalli Branch. After receiving the branch's views, a consolidated statement was



prepared and forwarded to the Circle General Manager. Ultimately, on 20.09.2018, a recommendation was made to de-empanel the Petitioner and report his name to the IBA. She contends that the procedural requirement of issuing notice and considering the explanation has been complied with.

13.4. She relies on **RKL Prasad vs. State Bank of India and Others** and on the judgment of the Hon'ble Division Bench of the Madras High Court in **Chairman and Managing Director, UCO Bank vs. K. Marimuthu and Ors.**

13.5. The principles of natural justice are the bedrock of fair procedure. They require, at a minimum, that a person against whom adverse action is proposed to be taken should be given notice of the proposed action, an opportunity to be heard, and a reasoned decision, which should be communicated to the person affected.

13.6. In the present case, the following factual position emerges from the material on record:

13.6.1. A show cause notice dated 10.04.2018 was issued from the Head Office of



Andhra Bank to the Petitioner, calling upon him to explain the alleged irregularities in valuation reports.

- 13.6.2. The Petitioner sought certain information and clarification by his reply dated 09.06.2018. No response was given to this request.
- 13.6.3. The Petitioner submitted his detailed reply on 23.07.2018.
- 13.6.4. There is no material to show that the Petitioner's reply was considered by the competent authority in a structured manner, or that the Petitioner was informed of the views taken on his reply.
- 13.6.5. There is no material to show that a hearing was conducted at any stage.
- 13.6.6. There is no material to show that a reasoned order was passed by the competent authority upon consideration of the Petitioner's reply.
- 13.6.7. The decision to de-empanel the Petitioner and report his name to IBA



was taken on 20.09.2018, but was not communicated to the Petitioner.

13.6.8. The Petitioner came to know of the inclusion only subsequently, when he made inquiries about non-allotment of work.

13.7. **Whether the Petitioner's reply to the show cause notice was duly considered:** Smt. Divya Purandhar submits that the explanation was not ignored, and that clarifications were sought from the branch, a consolidated statement prepared, and the matter forwarded to the Circle General Manager. However, 'internal processing' of the explanation within the bank's departmental hierarchy is not the same as 'due consideration' of the Petitioner's reply in a manner that satisfies natural justice. Due consideration requires that the explanation be examined on its merits, that each ground raised by the Petitioner be addressed, and that the decision-maker demonstrate application of mind to the explanation. There is no evidence that this was done. There is no order or note sheet showing consideration of the Petitioner's



reply point by point. The principles laid down by this Court in **Veershetty vs. The Chairman, IBS & Ors.** are directly applicable. In that case, this Court found that the replies submitted by the Petitioner therein had not been considered and that the banks had proceeded to terminate and disempanel him in violation of natural justice.

- 13.8. **Whether opportunity of hearing was afforded:** It is undisputed that no hearing was conducted. The Petitioner was not called for any hearing. No oral opportunity was provided. While the Procedural Guidelines note that personal hearing was not found 'feasible' by the Working Group, they also specifically state that 'banks could take a case specific view in the matter, depending on the gravity of the case.' Clause 1.4 of the Handbook expressly mandates a 'hearing' as one of the three mandatory steps. The word 'hearing' in Clause 1.4 is not qualified or diluted. It stands as a mandatory pre-condition. In the present case, no hearing of any kind was afforded to the Petitioner.



- 13.9. **Whether a reasoned decision was recorded:** There is no evidence that a reasoned decision was recorded by the competent authority. The respondents have not produced any order sheet, note file or decision document that records the reasons for de-empanelling the Petitioner and reporting his name to IBA. As held in **M/s. G.P. Sankaram and Associates vs. Union Bank of India and Ors.**, 'Deleting the name of the person from the rolls or panel without assigning any reasons is unfair and arbitrary.'
- 13.10. **Whether the decision was communicated to the Petitioner:** It is the Petitioner's specific case that no decision was communicated to him. He came to know of the inclusion only when he made inquiries about non-allotment of work. The respondents have not placed on record any letter or communication addressed to the Petitioner informing him of the decision. Guideline No.6(m) specifically requires that the decision shall 'also be conveyed to the TPE by the concerned group in the form of a written communication.' This mandatory requirement has admittedly not been complied with.



13.11. The reliance placed by Smt. Divya Purandhar on **RKL Prasad vs. State Bank of India and Others** is distinguishable. In **RKL Prasad**, the Hon'ble Andhra Pradesh High Court found that a notice had been issued, an explanation submitted, and thereafter a decision was taken. The Court was satisfied that the decision-making process had been 'followed scrupulously'. In the present case, the process has not been followed scrupulously. The reply was not demonstrably considered, no hearing was held, no reasoned order was passed, and no communication was made.

13.12. Similarly, the reliance on **Chairman and Managing Director, UCO Bank vs. K. Marimuthu and Ors.** does not assist the respondents. The **Marimuthu** decision deals with the nature of the relationship between a bank and an empanelled lawyer, holding it to be a purely professional relationship. It does not dilute the requirement of natural justice. Even in a purely professional relationship, where an adverse action carrying civil consequences is taken, the minimum



requirements of natural justice must be satisfied.

13.13. For the foregoing reasons, I answer point No. (iv) by holding that the principles of natural justice were not complied with prior to the inclusion of the Petitioner's name in the TPE Caution List. The Petitioner's reply was not duly considered; no hearing was afforded; no reasoned decision was recorded; and no communication was made to the Petitioner. The action is vitiated by violation of natural justice on all four counts.

14. **ANSWER TO POINT NO.5: Whether there exists a clear, categorical and recorded finding that the Petitioner indulged in unfair practices, professional misconduct, violation of code of ethics, or acted with malafide intention of the nature contemplated under the governing guidelines and handbook; and whether mere negligence or gross negligence, absent proof of malafide intention or fraud attributable to the Petitioner, would justify inclusion in the TPE Caution List?**

14.1. Sri. Prabhu N. Savanur, learned counsel for the Petitioner, submits that for inclusion in the



caution list, the governing guidelines require a finding of malafide intention, fraud, or serious professional misconduct. Mere negligence or even gross negligence, absent proof of malafide intention, does not justify inclusion. He relies on Guideline No.6(g), which provides that 'It may not be fair to caution list a TPE for a reported instance of negligence when malafide intentions are not involved.' He submits that there is no categorical finding of fraud, collusion or malafide intent against the Petitioner.

14.2. He further relies on Clause 1.4 of the Handbook, which permits removal from the panel only in 'extreme cases where the valuer has been found to be indulging in unfair practices, guilty of professional misconduct, violating the code of ethics and professional practice.' He submits that no such finding has been recorded against the Petitioner.

14.3. Smt. Divya Purandhar, learned counsel for respondents No.1, 3 and 4, submits that irregularities were noticed in the Petitioner's valuation reports and that property was overvalued. She contends that valuation reports



form the basis for determining the quantum of loan, and if a property is overvalued, the bank is exposed to loss. She submits that the bank is duty-bound to act when such irregularities are noticed.

- 14.4. She relies on **RKL Prasad vs. State Bank of India and Others**, where the Court noted that guidelines for empanelment permit de-listing on account of under/over valuation of assets.
- 14.5. The distinction between negligence and malafide intention is central to the framework governing inclusion in the TPE Caution List. The Procedural Guidelines expressly recognise this distinction and provide for differential treatment.
- 14.6. Guideline No.6(g) provides: 'The Forum will take a considered view when isolated cases of negligence/gross negligence on the part of the TPE is reported as to the desirability of recommending inclusion of the TPE in the caution list. It may not be fair to caution list a TPE for a reported instance of negligence when malafide intentions are not involved.'



- 14.7. Guideline No.6(h) provides: 'If the Forum feels that the intentions of the TPE were malafide, the Forum will ask the concerned business/operations group to write to the TPE concerned and seek explanation for his/her action.'
- 14.8. A conjoint reading of these provisions makes it clear that the Guidelines draw a fundamental distinction between (a) negligence or gross negligence, and (b) malafide intention. Inclusion in the caution list is warranted only where malafide intention is involved. For negligence, even if gross, the Guidelines caution against inclusion. The threshold for inclusion is not mere irregularity or even negligence; it is malafide intention or fraud.
- 14.9. Clause 1.4 of the Handbook similarly requires that the valuer must be 'found to be indulging in unfair practices, guilty of professional misconduct, violating the code of ethics and professional practice.' The use of the words 'found to be' indicates that there must be a positive finding, not a mere allegation. The words 'indulging in unfair practices' and



‘professional misconduct’ denote a degree of culpability higher than negligence.

14.10. In the present case, the show cause notice dated 10.04.2018 alleges ‘irregularities’ and ‘inflated valuation reports’. However, the show cause notice does not make any specific finding of malafide intention, fraud, collusion, or dishonesty. The language used is consistent with an allegation of negligence or error in professional judgment, not with malafide conduct.

14.11. The respondents have not placed on record any document, investigation report, order, note sheet or decision that records a categorical finding that the Petitioner acted with malafide intention, that he colluded with borrowers, that he deliberately overvalued properties to facilitate fraud, or that he indulged in unfair practices or violated the code of ethics. Smt. Divya Purandhar’s submission that ‘irregularities were noticed’ falls far short of a finding of malafide intent.

14.12. In **N.R. Raghuram & Co. vs. Indian Banks’ Association and Ors.**, the Hon’ble Madras



High Court held that 'since there is no finding that the Petitioner has committed any of the aforementioned irregularities, with regard to other banks, the hosting of the Petitioner's name in the caution list of the first respondent website is arbitrary, and unconstitutional.' This principle has been consistently followed in **P. Ravi Kumar, P. Subramani, S. Karthikeyan, and M/s. Vitec Consultancy**. In **Vitec Consultancy**, the Court specifically noted that the alleged lapse pertained to a single stray instance of overvaluation and held that uploading the name was an extreme step taken without due process.

14.13. This Court in **Shri H.T. Vasudev vs. State Bank of India & Ors.** categorically held that allegations pertaining to discrepancies in the extent and location of the property vis-a-vis title documents could not be attributed to the valuer, whose duty is confined to physical inspection and submission of a valuation report. The Court found that the various allegations clearly have no nexus/connection whatsoever with the nature of duties and responsibilities to be fulfilled and performed by them while



submitting a report.’ This finding negates the very basis upon which the Petitioner’s name was included in the caution list.

14.14. As regards **RKL Prasad vs. State Bank of India and Others**, relied upon by the respondents, that decision is distinguishable. In **RKL Prasad**, the Court noted that a notice had been issued, an explanation considered, and a decision taken. The Court also noted that the applicable guidelines specifically contemplated de-listing for under/over valuation. However, the Court did not hold that mere allegation of overvaluation, without a finding of malafide intent, would be sufficient for inclusion in the IBA caution list. The issue in the present case is not the bank’s right to de-empanel a valuer from its own panel (which is a matter of contractual discretion), but the further step of reporting the name to IBA for inclusion in the industry-wide caution list, which requires a finding of malafide intent under the governing guidelines.

14.15. For the foregoing reasons, I answer Point No. (v) by holding that there does not exist any



clear, categorical or recorded finding that the Petitioner indulged in unfair practices, professional misconduct, violation of code of ethics, or acted with malafide intention. The allegations, at their highest, point towards possible negligence or error in professional judgment. In terms of the governing guidelines and handbook, mere negligence or gross negligence, absent proof of malafide intention or fraud attributable to the Petitioner, does not justify inclusion in the TPE Caution List.

15. **ANSWER TO POINT NO.6: Whether the alleged discrepancies or irregularities attributed to the Petitioner fall within the professional scope and responsibilities of a civil engineer and approved valuer, or whether they pertain to matters such as scrutiny of title, verification of documents and legal due diligence, which lie within the exclusive domain of the bank's legal counsel?**

15.1. Sri. Prabhu N. Savanur, learned counsel for the Petitioner, submits that the Petitioner is a civil engineer by profession and was empanelled as an approved valuer. His duty is confined to physical inspection of the property and submission of a valuation report based upon guideline value, prevailing market value and other technical parameters relevant to



valuation. The scrutiny of title deeds, verification of ownership, assessment of genuineness and legality of documents, and examination of documentary authenticity lie within the exclusive domain of the legal counsel engaged by the bank. He relies upon **Shri H.T. Vasudev vs. State Bank of India & Ors.**, wherein this Court held that discrepancies relating to the extent and location of property vis-a-vis title documents are matters to be scrutinised by the legal counsel and not by the valuer.

- 15.2. Smt. Divya Purandhar, learned counsel for respondents No.1, 3 and 4, submits that irregularities were noticed in certain valuation reports furnished by the Petitioner, including inflated valuation. She contends that valuation reports form the basis for determining the quantum of loan and that the bank is duty-bound to take corrective action when irregularities are noticed.
- 15.3. This Court has carefully examined the nature of the allegations levelled against the Petitioner. The show cause notice dated 10.04.2018 refers



to 'serious irregularities in the valuation of properties pertaining to the loan transaction of Hagarabommanahalli branch.' The specific allegations relate to inflated valuation and discrepancies in the identification and extent of properties.

- 15.4. The scope of duties and responsibilities of a civil engineer functioning as an approved valuer of a bank was analysed by this Court in **Shri H.T. Vasudev vs. State Bank of India & Ors.** In that decision, this Court held:

"The alleged discrepancies in the extent and location of the property available at the spot in relation to the property documents is to be scrutinized and assessed by the legal counsel of the bank and not by the petitioners, who are merely civil engineers and approved valuers, whose duties and responsibilities are to inspect the property and submit their report regarding the valuation on the basis of the guideline value and actual market value by taking into consideration all relevant parameters, which does not include scrutiny of the title documents and property records..."

- 15.5. The Court further held:

"...the various allegations and claim made by the respondent – bank describing/categorizing the valuation report submitted by the petitioners as an act of professional misconduct clearly has no nexus/connection whatsoever with the nature of duties and responsibilities



to be fulfilled and performed by them while submitting a report."

- 15.6. The principle emerging from **Vasudev** is clear: a valuer's professional obligation is confined to physical inspection of the property and submission of a valuation report based on technical and market parameters. The valuer is not responsible for scrutiny of title documents, verification of ownership or extent as reflected in revenue records, or assessment of the genuineness of documents furnished by the borrower. These functions lie within the domain of the bank's legal counsel and due diligence machinery.
- 15.7. In the present case, the allegations against the Petitioner pertain to discrepancies in the valuation of properties relating to the Hagarabommanahalli branch. However, the respondents have not demonstrated that the alleged discrepancies fall squarely within the professional remit of the Petitioner as a valuer, as opposed to the domain of title verification and legal due diligence. If the allegation is that the property was not correctly identified, or



that the extent was different from what the documents showed, or that the documents themselves were defective, those are matters that fall within the realm of the bank's own verification machinery and legal counsel. Attributing such discrepancies to the valuer amounts to holding the valuer responsible for functions that are not his.

15.8. The decisions of the Hon'ble Madras High Court in **N.R. Raghuram & Co., P. Ravi Kumar, P. Subramani**, and **M/s. Vitec Consultancy** also proceed on the basis that inclusion in the caution list without a finding of professional misconduct within the scope of the valuer's duties is arbitrary and unconstitutional.

15.9. For the foregoing reasons, I answer Point No. (vi) by holding that the alleged discrepancies or irregularities attributed to the Petitioner, to the extent they pertain to matters such as scrutiny of title, verification of documents and legal due diligence, lie within the exclusive domain of the bank's legal counsel and are outside the professional scope of a civil engineer and approved valuer. The Petitioner cannot be held



responsible for functions that are not within his professional remit, and the inclusion of his name in the caution list on such basis is unjustified.

16. **ANSWER TO POINT NO.7: Whether inclusion of the Petitioner's name in the TPE Caution List, having industry-wide reputational and professional consequences, constitutes a stigmatic action attracting civil consequences, thereby necessitating strict adherence to procedural safeguards and higher standards of fairness?**

16.1. Sri. Prabhu N. Savanur, learned counsel for the Petitioner, submits that inclusion in the TPE Caution List has industry-wide reputational and professional consequences. It operates as a virtual blacklist affecting the Petitioner's ability to obtain professional engagements from any member bank of the Indian Banks' Association.

16.2. Smt. Divya Purandhar, learned counsel for respondents No.1, 3 and 4, submits that the caution list is not a blacklist. It is merely advisory in nature. It serves as a warning to member banks. It is open to any bank to still engage the Petitioner if it so chooses. The caution list is not binding on member banks and does not automatically bar engagement. She



relies on **Thimmanna vs. Union Bank of India**, where this Court held that the impugned order did not attach stigma to the Petitioner as a professional. She also relies on **Bhanwar Singh Rajpurohit vs. Dena Bank (Now Bank of Baroda)**, where the Hon'ble Rajasthan High Court held that inclusion in the caution list is 'a mere caveat for the banks of the country to exercise their discretion and remain cautious.'

- 16.3. The characterisation of the caution list as 'merely advisory' does not accord with its practical consequences. While the caution list may not technically 'prohibit' banks from engaging a listed entity, the reality is that once a professional's name appears on the caution list maintained by the Indian Banks' Association and published on its website, no bank in practice will engage such a professional. The caution list operates as a centralised adverse signal broadcast to the entire banking industry. A bank that proceeds to engage a listed entity despite the caution listing would be exposing itself to questions and audit objections regarding why it engaged a professional who is



flagged as having been involved in irregularities. In practice, therefore, the caution list operates as a de facto blacklist.

16.4. This is precisely what has happened in the present case. The Petitioner has not received any work from any bank since his name was included in the caution list. Even respondent No.5 - The Federal Bank, with whom the Petitioner was separately empanelled in 2021, has not allotted work to him. The practical effect of the caution listing is indistinguishable from a blacklist.

16.5. The judgment of this Court in **Thimmanna vs. Union Bank of India**, relied upon by the respondents, is distinguishable. In **Thimmanna**, the question was about discontinuation from a single bank's panel, which was held not to be stigmatic. In the present case, the question is about inclusion in an industry-wide caution list published by the Indian Banks' Association, which has far wider ramifications. There is a clear distinction between a bank exercising its discretion not to engage a professional (which is within its



rights) and that bank additionally causing the professional's name to be placed on a centralised caution list visible to all banks (which carries stigmatic and reputational consequences).

16.6. This distinction was expressly recognised in **Shri H.T. Vasudev vs. State Bank of India & Ors.**, where this Court, while directing removal of the Petitioner's name from the caution list, clarified that the bank was at liberty not to renew or continue the services of the Petitioner by passing appropriate orders. Similarly, in **Veershetty**, this Court directed removal from the caution list while remitting the matter to the banks for reconsideration in accordance with law. This demonstrates the distinction between contractual empanelment (which is within the bank's discretion) and industry-wide caution listing (which is stigmatic and requires procedural safeguards).

16.7. As regards **Bhanwar Singh Rajpurohit vs. Dena Bank (Now Bank of Baroda)**, the Hon'ble Rajasthan High Court characterised the caution list as 'a mere caveat'. With respect,



I'am of the view that the practical impact of the caution list goes far beyond a mere caveat. It is an adverse entry in a centralised database that is accessible to and relied upon by the entire banking industry. Its effect on the reputation, livelihood and professional prospects of the listed entity is severe and enduring.

16.8. The Hon'ble Madras High Court in **M/s. Vitec Consultancy vs. Indian Banks' Association and Ors.** held that uploading the name resulted in the Petitioner coming to the adverse knowledge of all banks, and that 'there cannot be a restraint of trade absolutely.' This recognises the stigmatic nature of the caution list.

16.9. For the foregoing reasons, I answer point no. (vii) by holding that the inclusion of the Petitioner's name in the TPE Caution List, having industry-wide reputational and professional consequences, constitutes a stigmatic action attracting civil consequences. Being stigmatic in nature, it necessitates strict adherence to procedural safeguards and higher



standards of fairness before such inclusion can be effected.

17. **ANSWER TO POINT NO.8: Whether such inclusion amounts to an unreasonable, arbitrary or disproportionate restriction on the Petitioner's right to practise his profession under Article 19(1)(g) of the Constitution of India, and if so, whether the same can be justified as a reasonable restriction in the interests contemplated under Article 19(6)?**

17.1. Sri. Prabhu N. Savanur, learned counsel for the Petitioner, submits that the inclusion of the Petitioner's name in the caution list has an adverse impact on the fundamental right to practice trade and profession under Article 19(1)(g) of the Constitution of India. Even if the right is subject to reasonable restrictions under Article 19(6), any such restriction would have to be imposed in accordance with applicable law and by following due procedure.

17.2. Smt. Divya Purandhar, learned counsel for respondents No.1, 3 and 4, submits that inclusion in the caution list does not prevent the Petitioner from practising as a valuer altogether. It only means that certain banks may choose not to engage him. He is free to offer his services to other entities. Therefore,



there is no complete prohibition of his profession.

17.3. Article 19(1)(g) of the Constitution of India guarantees to all citizens the right to practise any profession, or to carry on any occupation, trade or business. Article 19(6) empowers the State to make any law imposing reasonable restrictions on the exercise of this right in the interests of the general public.

17.4. The Petitioner is a civil engineer by profession and derives his livelihood from empanelment with banks as an approved valuer. The banking sector constitutes a significant, if not the dominant, market for professional valuation services. Inclusion in the TPE Caution List effectively shuts the Petitioner out of this entire market. While the respondents argue that the Petitioner is free to offer services to other entities, the reality is that the banking sector is the primary consumer of professional valuation services in the context of loan processing and security assessment. Being effectively excluded from this sector amounts to a substantial



deprivation of the Petitioner's right to practise his profession.

17.5. The restriction imposed by the caution listing is not a reasonable restriction within the meaning of Article 19(6), for the following reasons:

- 17.5.1. It is not imposed by or under any law. The caution list is maintained under internal guidelines and procedural frameworks of the Indian Banks' Association. It does not derive its authority from any statute or statutory regulation.
- 17.5.2. It is not proportionate. The caution listing operates as a blanket industry-wide bar, affecting the Petitioner's engagement with all member banks, not just the bank that raised the complaint. The disproportionality is evident.
- 17.5.3. It is not preceded by due process. As found in the answer to Points (iii) and (iv), the procedural safeguards prescribed under the governing



guidelines and handbook were not followed.

17.5.4. It is indefinite in duration. Clause 1.4 of the Handbook contemplates removal from the panel for a maximum period of five years where charges are found serious. The Petitioner's name has been on the caution list since 2019, i.e., for over five years, with no mechanism for review or removal. This exceeds even the maximum period contemplated under the Handbook.

17.6. The Hon'ble Madras High Court in **N.R. Raghuram & Co. vs. Indian Banks' Association and Ors.** held that hosting the Petitioner's name in the caution list, affecting his business interest with other member banks, 'will amount to deprivation of fundamental rights of the Petitioner, to carry on his business as a valuer with other banks.' Similarly, in **M/s. Vitec Consultancy**, the Court held that 'there cannot be a restraint of trade absolutely.'

17.7. For the foregoing reasons, I answer point No. (viii) by holding that the inclusion of the



Petitioner's name in the TPE Caution List amounts to an unreasonable, arbitrary and disproportionate restriction on the Petitioner's right to practise his profession under Article 19(1)(g) of the Constitution of India. The restriction is not saved by Article 19(6), as it is not imposed under any law, is not proportionate, is not preceded by due process, and is indefinite in duration.

18. **ANSWER TO POINT NO.9: Whether the reporting and inclusion of the Petitioner's name in the TPE Caution List is sustainable in the absence of disclosure of the nature, classification and quantum of the alleged fraud in terms of the applicable RBI Master Circular on Frauds – Classification and Reporting?**

18.1. Sri. Prabhu N. Savanur, learned counsel for the Petitioner, refers to the Master Circular on Frauds - Classification and Reporting dated 01.07.2013, issued by the Reserve Bank of India. He submits that different procedural frameworks are prescribed depending upon the quantum and nature of fraud. In the absence of any categorical disclosure as to the extent or classification of the alleged fraud, the Petitioner has been deprived of the opportunity to



understand the procedural route adopted by the respondents and to effectively defend himself.

18.2. Smt. Divya Purandhar, learned counsel for respondents No.1, 3 and 4, has not specifically addressed this contention in her submissions. She has generally submitted that the internal process was followed and the decision was taken by the competent authority.

18.3. The RBI Master Circular on Frauds - Classification and Reporting prescribes different procedural requirements based on the classification of fraud by amount and nature. The classification determines the level of authority required to take a decision, the reporting requirements, and the procedural safeguards applicable. Without disclosure of the nature, classification and quantum of the alleged fraud, the affected party is unable to ascertain which procedural framework applies and whether the correct procedure has been followed.

18.4. In the present case, the show cause notice dated 10.04.2018 refers to 'serious irregularities in the valuation of properties' but



does not classify the alleged fraud in terms of the RBI Master Circular. It does not specify the quantum of the alleged fraud. It does not indicate whether the case was reported to the RBI as a fraud and, if so, under which classification. This lack of disclosure deprived the Petitioner of the ability to understand the procedural framework that the respondents were purporting to follow, and consequently to mount an effective defence.

18.5. It is a fundamental requirement of fairness that a person against whom adverse action is proposed should be informed of the nature of the case against him, including the classification and quantum of the alleged wrongdoing. This is especially so where different procedural frameworks apply depending on the classification. The non-disclosure of this material information further vitiates the process.

18.6. For the foregoing reasons, I answer Point No. (ix) by holding that the reporting and inclusion of the Petitioner's name in the TPE Caution List is not sustainable in the absence of disclosure



of the nature, classification and quantum of the alleged fraud in terms of the applicable RBI Master Circular on Frauds - Classification and Reporting. The non-disclosure deprived the Petitioner of the ability to understand and effectively respond to the case against him.

19. **ANSWER TO POINT NO.10: In the light of the findings on the above issues, whether the Petitioner is entitled to a writ of mandamus directing removal of his name from the TPE Caution List and to consequential directions regarding continuation or reconsideration of empanelment by the respondent banks?**

- 19.1. Sri. Prabhu N. Savanur, learned counsel for the Petitioner, submits that in view of the procedural violations, breach of natural justice, absence of any finding of malafide intent, and the disproportionate impact on the Petitioner's fundamental rights, the Petitioner is entitled to a writ of mandamus directing removal of his name from the TPE Caution List and consequential directions for continuation or reconsideration of empanelment. He relies upon the relief granted in **Shri H.T. Vasudev, Veershetty, M/s. G.P. Sankaram, N.R. Raghuram, P. Ravi Kumar, P. Subramani,**



S. Karthikeyan, and M/s. Vitec Consultancy.

19.2. Smt. Divya Purandhar, learned counsel for respondents No.1, 3 and 4, submits that the writ petition is liable to be dismissed on the grounds of delay, non-maintainability, and that the internal process was duly followed. She submits that no direction for the specific performance of a contractual relationship can be issued in writ jurisdiction. She relies on **Thimmanna, Kishor S. Bhat, Marimuthu, Bhanwar Singh Rajpurohit, and RKL Prasad.**

19.3. In the light of the findings on Points 1 through 9, the position that emerges is as follows:

19.3.1. The writ petition is not liable to be dismissed on the ground of delay, laches or acquiescence (Point No.1).

19.3.2. Respondent No.1, in maintaining and publishing the TPE Caution List, performs a public or quasi-public function amenable to judicial review under Article 226 (Point No.2).



- 19.3.3. The process of inclusion was not in compliance with the Procedural Guidelines, Guideline No.6, or Clause 1.4 of the Handbook (Point No.3).
- 19.3.4. The principles of natural justice were violated (Point No.4).
- 19.3.5. There is no categorical finding of malafide intent, fraud or serious professional misconduct (Point No.5).
- 19.3.6. The alleged discrepancies do not fall squarely within the professional scope of a valuer (Point No.6).
- 19.3.7. The caution listing constitutes a stigmatic action attracting civil consequences (Point No.7).
- 19.3.8. The restriction on the Petitioner's right under Article 19(1)(g) is unreasonable, arbitrary and disproportionate (Point No.8).
- 19.3.9. The inclusion is unsustainable in the absence of disclosure of fraud classification (Point No.9).



- 19.4. The cumulative effect of these findings is that the inclusion of the Petitioner's name in the TPE Caution List is illegal, arbitrary, violative of natural justice, in breach of the governing guidelines and handbook, and violative of the Petitioner's fundamental right under Article 19(1)(g) of the Constitution. The action is liable to be set aside.
- 19.5. The precedents cited by the Petitioner uniformly support the grant of relief. In **Shri H.T. Vasudev**, this Court directed the Indian Banks' Association to remove the Petitioner's name from the TPE Caution List and issue a fresh list. In **Veershetty**, the impugned orders were set aside and the matter was remitted for reconsideration, with a direction to remove the name from the caution list. In **M/s. G.P. Sankaram**, the Telangana High Court directed removal from the caution list. In **N.R. Raghuram**, the Hon'ble Madras High Court directed removal of the name from the caution list within a stipulated period. The same direction was issued in **P. Ravi Kumar, P. Subramani, S. Karthikeyan**, and **M/s. Vitec Consultancy**.



- 19.6. The decisions relied upon by the respondents do not stand in the way of granting relief. **Thimmanna** dealt with simple discontinuation from a panel, not caution listing. **Kishor S. Bhat** dealt with the Article 12 question, which has been addressed in Point No.2. **Marimuthu** dealt with the nature of the relationship between bank and empanelled professionals, which does not negate the requirement of natural justice for stigmatic actions. **Bhanwar Singh Rajpurohit**, while holding that the caution list is not stigmatic, is a view with which this Court, with respect, does not agree, in light of the practical consequences of caution listing as discussed under Point No.7. **RKL Prasad** (2024 SCC OnLine AP 730) is distinguishable on facts, as the Court therein found the process to have been followed.
- 19.7. This Court is not directing specific performance of a contract. The Petitioner is not seeking a direction to compel any bank to empanel him or engage his services. The relief sought is the removal of his name from the caution list, which is an illegally and arbitrarily imposed adverse entry that has industry-wide



consequences. This is well within the power of this Court under Article 226 of the Constitution. As regards empanelment, this Court preserves the liberty of the respondent banks to take independent decisions regarding empanelment in accordance with law and their internal procedures, uninfluenced by the caution listing.

19.8. For the foregoing reasons, I answer Point No. (x) by holding that the Petitioner is entitled to a writ of mandamus directing removal of his name from the TPE Caution List and to consequential directions as set out in the operative order.

20. **ANSWER TO POINT NO.11: What order?**

21. For the reasons set out above and in view of the answers to Points 1 through 10, I pass the following:

ORDER

- (i) The writ petition is hereby ***allowed***.
- (ii) The action of the respondents in including/causing the inclusion of the Petitioner's name in the TPE Caution List maintained and published by respondent No.1 – Indian Banks' Association is hereby declared to



be illegal, arbitrary, violative of principles of natural justice, in breach of the governing Procedural Guidelines, the Handbook on Policy, Standards and Procedures for Real Estate Valuation by Banks and Housing Finance Institutions in India, and violative of the Petitioner's fundamental right under Article 19(1)(g) of the Constitution of India.

- (iii)** Respondent No.1 – Indian Banks' Association is directed to forthwith remove/delete the name of the Petitioner from the TPE Caution List and issue a fresh/new list by deleting the name of the Petitioner, and also upload the fresh/new list without the name of the Petitioner on its website (www.iba.org.in) as expeditiously as possible and at any rate within a period of four weeks from the date of receipt of a certified copy of this Order.
- (iv)** Respondents No.3 and 4 – banks are directed to take necessary steps to delete the name of the Petitioner from the TPE Caution List or any other list showing/indicating the name of the Petitioner as disempanelled/depanelled valuer of the bank, within a period of four weeks from



the date of receipt of a certified copy of this Order.

- (v)** Respondents No.3 to 5 – banks are directed to reconsider the empanelment of the Petitioner afresh, on merits, in accordance with the prevailing guidelines and procedures, without being influenced or prejudiced by the impugned inclusion in the TPE Caution List, and to take an appropriate decision and communicate the same to the Petitioner within a period of eight weeks from the date of receipt of a certified copy of this Order.
- (vi)** It is clarified that this Order shall not prevent any respondent bank from taking independent decisions regarding empanelment, continuation, or non-renewal of the Petitioner's services in accordance with law, its internal guidelines and contractual terms, provided such decisions are taken on merits and in compliance with principles of natural justice, and not on the basis of the impugned caution listing.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE