

# Sanjay Singal & Anr vs Union Bank Of India on 17 May, 2021

**Author: Prateek Jalan**

**Bench: Prateek Jalan**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 5330/2021

SANJAY SINGAL & ANR.

Through:

Mr. Sandeep

Advocate with Mr.

Agarwala, Ms. Niyati Kohli, Mr.

Pratham Vir, Ms. Manvi Agarwal

and Ms. Aarushi Tiku, Advocates

..... Petiti

Sethi, Senior

versus

UNION BANK OF INDIA

Through:

Mr. O.P. Gaggar, Advocate.

..... Respond

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% 17.05.2021 The proceedings in the matter have been conducted through video conferencing.

CM APPLs. 16408-16410/2021 (for exemptions) Exemptions allowed, subject to all just exceptions. These applications stand disposed of.

W.P.(C) 5330/2021 and CM APPL. 16407/2021 (for stay)

1. Issue notice. Mr. O.P. Gaggar, learned counsel, accepts notice on behalf of respondent/Union Bank of India ["UBI"]. The petition is taken up for disposal with the consent of learned counsel for the parties.

2. The petitioners assail a decision taken by the Review Committee of the respondent/Bank constituted under Clause 3(c) of the Master Circular on 'Wilful Defaulters' dated 01.07.2015, issued by the Reserve Bank of India ["RBI"].

3. The impugned order of the Review Committee dated 06.04.2021 states as follows:-

" ORDER This is with reference to the Order passed by "identification Committee" on Wilful Defaulters which was conveyed to you vide letter Ref. No. WD:IDC:ORDER:0312 dated 04.02.2021.

The said order of Identification Committee and representations made by company/ promoters/ directors/ guarantors were placed before "Review Committee for Non Cooperative Borrowers and Wilful Defaulters" for taking a decision in the matter.

The "Review Committee" in its meeting held on 22.03.2021 considered the entire material brought on record including contentions/ appeal of the borrower/promoters/directors/ guarantors and views of Identification Committee. After careful examination of the facts of the case, the Review Committee observed that there is unimpeachable evidence/s against the promoters/ directors/ guarantors and their act would fall under the purview of RBI guidelines on "Wilful Defaulter".

Hence, the Review Committee confirmed the order passed by Identification Committee on Wilful Defaulters in its meeting held on 22.01.2021, declaring the promoters/ whole time directors/ guarantors (mentioned below) as Wilful Defaulters.

Sr No.	Borrower Name	Promoters/ Directors/ Guarantors Name
1.	Erstwhile promoters/directors /guarantors of Bhushan Power and Steel Ltd.	Sanjay Singal (DIN 00006579) Aarti Singal (DIN 00007698)

Please note that in terms of order passed by Hon'ble High Court of Delhi on 22.02.2021, in WP(C) 2421/2021 & CM APPL 7055/2021, your name will not be published as wilful defaulter for a period of one week from the date of receipt of the instant order of Review Committee by you."

4. Mr. Sandeep Sethi, learned Senior Counsel for the petitioners, submits that the aforesaid order is entirely unreasoned and contrary to the judgment of the Supreme Court in State Bank of India vs. Jah Developers Private Limited & Ors. (2019) 6 SCC 787. He further submits that the petitioners had approached this Court by way of W.P. (C) 2421/2021, against the order passed by the Identification Committee of the Bank constituted under Clause 3(b) of the said Master Circular. The writ petition was disposed of by an order dated 22.02.2021 with the following directions:-

"5. It is undisputed that the petitioners have a remedy before the Review Committee of the Bank against the impugned order dated 04.02.2021. The Review Committee, in terms of paragraph 24 of Jah Developers (supra), is empowered to review the decision of the Identification Committee on questions of facts and law. In view of the fact that the petitioners have an alternative remedy by which their grievances can be efficaciously considered, I am of the view that it would be appropriate for the matter to be considered by the Review Committee. rather than to invoke the jurisdiction of the Writ Court at this stage.

5. The petition is therefore disposed of with liberty to the petitioners to file their representation before the Review Committee within 15 days from today. The Review Committee will pass a reasoned order in accordance with law, considering the submissions raised by the petitioners in

their representation. In order to enable the petitioners to challenge the order of the Review Committee, if it is adverse to them, it is directed that the publication will take place consequent to the orders of the Review Committee and will not take place until one week after the communication of the order to the petitioners."

(Emphasis supplied.)

6. It appears from the perusal of the impugned order that the Review Committee has not offered any reasons for the rejection of the representation filed by the petitioners. Although the impugned decision refers to the representation of the petitioners, the Committee has only stated its conclusion that there is unimpeachable evidence against the petitioners, and their acts would fall foul of the Master Circular. Such a statement of conclusions cannot substitute for an expression of reasons. The impugned order is in abject violation of the judgment of the Supreme Court in *Jah Developers* (supra) (paragraph 24), and the directions of this Court in the order dated 22.02.2021, both of which expressly require the Review Committee to give reasons for its decisions.

7. For the aforesaid reasons, the impugned order of the Review Committee dated 06.04.2021 is set aside and the matter is remanded to the Review Committee of the respondent/Bank for a fresh decision on the petitioners' representation dated 01.03.2021. As directed in the order dated 22.02.2021, in the event the order of the Review Committee is adverse to the petitioners, publication consequent to the order will not take place until one week after the communication of the order to the petitioners.

8. The writ petition is disposed of in these terms.

PRATEEK JALAN, J MAY 17, 2021 'vp'