

GAHC010057402020



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C) 1902/2020

1:ASHIM JYOTHI BORA
S/O BIPIN CHANDRA BORA, KAMALDEEP APARTMENT, MANIPURIBASTI
GUWHATI-7,KAMRUP (M), ASSAM

VERSUS

1:CENTRAL BANK OF INDIA AND 2 ORS.
HAVING ITS BRANCH OFFICE AT ULUBARI NEAR APSARA CINEMA, G.S.
ROAD, GUWAHATI-781007, REP. BY SENIOR REGIONAL MANAGER

2:THE CHIEF MANAGER
CENTRAL BANK OF INDIA
ULUBARI BARANCH
NEAR APSARA CINEMA G.S. ROAD
GUWAHATI-781007

3:THE DISTRICT MAGISTRATE
KAMRUP METROPOLITAN DISTRICT GUWAHATI-

Advocate for the Petitioner : MR. R DUBEY

Advocate for the Respondent : GA, ASSAM

BEFORE
HON BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA
HONOURABLE MR. JUSTICE HITESH KUMAR SARMA

ORDER

Date : 30-04-2020

AM Bujor Barua, J

Heard Mr. R Dubey, learned counsel for the petitioner. Also heard Mr. M Sarma, learned counsel representing the respondents No.1 and 2 being the authorities under the Central Bank of India.

2. Without going into as to what had transpired between the petitioner and the respondent bank prior to the representation made by the petitioner on 18.01.2020, we take note of that by the representation of 18.01.2020, the petitioner sought for an extension of time up to 31.03.2020 for payment of the outstanding dues in terms of the OTS sanction in his favour by the respondent bank. In the representation, it is stated that the respondent bank provided the petitioner with the following loan facilities:

“(1). Loan Account No.3303095579 for amounting to Rs.1,500,0000.00 dated 27/11/2013.

(2). Loan Account No.3589096766 for amounting to Rs.2000000.00 dated 13/01/2017.”

3. Accordingly the petitioner makes the following prayer before the bank in the representation dated 18.01.2020.

“Sir, I would like to submit before you that because of non clearance of bills in time by various government agencies and private companies for whom I am executing contracts, I could not make the payment as per schedule. However, I am eager to clear my dues of OTS within 31.03.2020. Be it mentioned herein that I have already made a payment of Rs.30.16 Lakhs till today and am trying my best to make the balance payment of OTS amount within 31.03.2020. Therefore, I request you to grant me time till 31.03.2020 to clear outstanding dues of OTS amount and till then no coercive measures should be taken by bank against my properties as well as the properties of the guarantor.”

4. A reading of the prayer would go to show that the petitioner sought for a time up to 31.03.2020 to clear all the outstanding dues of the OTS amount and till such time, no coercive measures be taken against the petitioner.

5. The prayer made by the petitioner in the representation dated 18.01.2020 stood rejected by the order dated 04.02.2020 of the respondent bank. We have taken note of that in the order of rejection, no reason as such has been stated by the respondent bank.

6. Be that as it may, being aggrieved by the order of rejection dated 04.02.2020, the present writ petition has been preferred for setting aside the order of rejection dated 04.02.2020 and further to grant the petitioner a reasonable time up to 30.06.2020 to clear the outstanding dues.

7. In our view, the first prayer of setting aside the order of rejection dated 04.02.2020 has already become infructuous, inasmuch as, even if the said order of rejection is reversed by this Court, it would only lead to a situation where the prayer made by the writ petitioner in the representation dated 18.01.2020 that the outstanding amount would be paid within 31.03.2020 would stand allowed. As regards the further prayer made in the writ petition that the petitioner be given time up to 30.06.2020, we find that there is no prayer made by the writ petitioner before the respondent bank seeking time up to 30.06.2020. As a direction to extend the time up to 30.06.2020 would be in the nature of a writ of mandamus, in the absence of any demand of the same being made by the petitioner before the respondent authorities no such mandamus can be issued. Although by the order dated 13.03.2020, the petitioner was given an interim protection against any coercive measure based on his statement that the outstanding payment would be made within 31.03.2020, but it is stated that because of the prevailing circumstances in the country prior to the said date, the petitioner could not comply with the requirement.

8. In the circumstances, this writ petition is disposed of by requiring the petitioner to make appropriate representation to the respondent bank strictly within a period of 7(seven) days from today. In the event, any such representation is made, the respondent bank shall respond to the same by passing a reasoned order within 15 days from the date of submission of the representation. Till such reasoned order is passed i.e. 7(seven) days for submitting the representation and 15(fifteen) days for passing the order, no coercive action be taken by the respondent bank against the petitioner. In the event, the representation is not submitted within 7(seven) days from today, the interim protection shall not stand in favour of the petitioner any further.

9. In terms of the above, this writ petition stands disposed of.

JUDGE

JUDGE

Comparing Assistant